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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA SECRETARIAT

NOTIFICATION

New Delhi, the 20th May, 1969

No. F. 1/6(9)/69/L.—Under Rule 64 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Speaker of Lok Sabha has been pleased to order the publication of the Taxation Laws (Amendment) Bill, 1969 in the Gazette of India before the introduction of the Bill in Lok Sabha. The Bill is accordingly published for general information:—

(TO BE INTRODUCED IN LOK SABHA)

Bill No. 49 of 1969

A Bill further to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Taxation Laws (Amendment) Act, 1969. Short title.

CHAPTER II

AMENDMENTS TO THE INCOME-TAX ACT, 1961

2. In section 2 of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act),— Amendment of section 2. 43 of 1961.

(*a*) in clause (*1*),—

(*i*) for sub-clause (*a*), the following sub-clause shall be, and shall be deemed always to have been substituted, namely:—

"(*a*) any rent or revenue derived from land which is situated in India and is used for agricultural purposes;";

(*ii*) in sub-clause (*c*), for the proviso, the following proviso shall be, and shall be deemed always to have been, substituted, namely:—

"Provided that—

(*i*) the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of rent-in-kind, by reason of his connection with the land, requires as a dwelling house, or as a store-house, or other out-building, and

(*ii*) the land is either assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such or, where the land is not so assessed to land revenue or subject to a local rate, it is situated beyond a distance of eight kilometres from the nearest local limits of any Municipality (whether known as a Municipality, Municipal Corporation, Notified Area Committee, Town Area Committee, Town Committee or by any other name) or Cantonment Board;";

(*b*) after clause (*37A*), the following clause shall be inserted with effect from the 1st day of April, 1970, namely:—

'(*37B*) "recognised firm", in relation to the assessment year commencing on the 1st day of April, 1970 or any subsequent assessment year, means a firm which is assessable as a recognised firm under the provisions of Chapter XVI-BB;';

(*c*) in clause (*39*), for the words "means a firm registered", the words, figures and letters ", in relation to the assessment year commencing on the 1st day of April, 1969, or any earlier assessment year, means a firm which is registered" shall be substituted with effect from the 1st day of April, 1970;

(*d*) after clause (*47*), the following clause shall be inserted with effect from the 1st day of April, 1970, namely:—

'(*47A*) "unrecognised firm", in relation to the assessment year commencing on the 1st day of April, 1970 or any subsequent assessment year, means a firm which is not a recognised firm;';

(*e*) in clause (*48*), after the words "a firm which", the words, figures and letters ", in relation to the assessment year commencing on the 1st day of April, 1969, or any earlier assessment year," shall be inserted with effect from the 1st day of April, 1970.

Amendment of section 10.

8. In section 10 of the Income-tax Act,—

(*a*) in clause (*2*), before the words "any sum received", the words, brackets and figures "subject to the provisions of sub-section (2) of section 64," shall be inserted with effect from the 1st day of April, 1970;

(*b*) after clause (*4A*), the following clause shall be, and shall be deemed to have been, inserted with effect from the 1st day of April, 1969, namely:—

"(*4B*) in the case of an assessee, being an individual who is not a citizen of India or a person (other than an individual)

who is not resident in India, where any amount of the tax which such assessee is liable to pay under this Act is borne by the Government, the amount of the tax so borne by the Government;";

(c) for clause (5), the following clause shall be, and shall be deemed always to have been, substituted, namely:—

"(5) subject to such conditions as the Central Government may prescribe, the value of any travel concession or assistance received by or due to any person, being a citizen of India,—

(a) from his employer for himself, his wife and children, in connection with his proceeding on leave to his home-district in India;

(b) from his employer or former employer for himself, his wife and children, in connection with his proceeding to his home-district in India after retirement from service or after the termination of his service;";

(d) in clause (6),—

(i) for sub-clause (i), the following sub-clause shall be, and shall be deemed always to have been, substituted, namely:—

"(i) subject to such conditions as the Central Government may prescribe, passage moneys or the value of any free or concessional passage received by or due to such individual—

(a) from his employer for himself, his wife and children, in connection with his proceeding on home leave out of India;

(b) from his employer or former employer for himself, his wife and children, in connection with his proceeding to his home country out of India after retirement from service in India or after the termination of such service;";

(ii) in sub-clause (vii),—

(A) after the words "as a technician in the employment", the brackets, words, figures and letters "(commencing from a date before the 1st day of April, 1970)" shall be inserted;

(B) in the *Explanation*, for the word ' "Technician" ', the words 'For the purposes of this sub-clause, "technician"' shall be substituted;

(iii) after sub-clause (vii), the following sub-clause shall be inserted, namely:—

'(viia) where such individual renders services as a technician in the employment (commencing from a date after the 31st day of March, 1970, of the Government or of a

local authority or of any corporation set up under any special law or of any such institution or body established in India for carrying on scientific research as is approved for the purposes of this sub-clause by the prescribed authority or in any business carried on in India and the following conditions are fulfilled, namely, that—

(*1*) the individual was not resident in India in any of the four financial years immediately preceding the financial year in which he arrived in India, and

(*2*) the contract of his service in India is approved by the Central Government before the commencement of such service or within six months of such commencement,

the remuneration for such service due to or received by him, which is chargeable under the head "Salaries", to the extent mentioned below, namely:—

(*i*) in the case of a technician who has specialised knowledge and experience in industrial or business management techniques, such remuneration due to or received by him during the period of twelve months commencing from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at the rate of four thousand rupees per month, and where the tax on the excess, if any, of such remuneration for the period aforesaid over the amount so calculated is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956), also the tax so paid by the employer; 1 of 1956.

(*ii*) in the case of any other technician—

(*A*) such remuneration due to or received by him during the period of thirty-six months commencing from the date of his arrival in India, in so far as such remuneration does not exceed an amount calculated at the rate of four thousand rupees per month, and where the tax on the excess, if any, of such remuneration for the period aforesaid over the amount so calculated is paid to the Central Government by the employer (which tax, in the case of an employer being a company, may be paid notwithstanding anything contained in section 200 of the Companies Act, 1956), also the tax so paid by the employer; and 1 of 1956.

(*B*) where he continues, with the approval of the Central Government obtained before the 1st day of October of the relevant assessment year, to remain in employment in India after the expiry of the period of thirty-six months aforesaid and the tax on his income chargeable under the head "Salaries" is paid to the Central Government by the employer (which tax, in the case of an employer, being a company, may be paid notwithstanding anything contained in

1 of 1956 section 200 of the Companies Act, 1956), the tax so paid by the employer for a period not exceeding twenty-four months next following the expiry of the thirty-six months aforesaid.

Explanation.—For the purposes of this sub-clause, "technician" means a person having specialised knowledge and experience in—

(*i*) constructional or manufacturing operations, or in mining or in the generation or distribution of electricity or any other form of power, or

(*ii*) agriculture, animal husbandry, dairy or poultry farming, deep sea fishing or ship building, or

(*iii*) industrial or business management techniques,

who is employed in India in a capacity in which such specialised knowledge and experience are actually utilised;';

(*e*) in clause (*26*), the words "who is not in the service of Government," shall be, and shall be deemed always to have been, omitted;

(*f*) after clause (*29*), the following clause shall be, and shall be deemed to have been, inserted with effect from the 1st day of April, 1969, namely:—

'(*30*) in the case of an assessee who carries on the business of growing and manufacturing tea in India, the amount of any subsidy received from or through the Tea Board under any such scheme for replantation of tea bushes as the Central Government may, by notification in the Official Gazette, specify:

Provided that the assessee furnishes to the Income-tax Officer, along with his return of income for the assessment year concerned or within such further time as the Income-tax Officer may allow, a certificate from the Tea Board as to the amount of such subsidy paid to the assessee during the previous year.

29 of 1953. *Explanation.*—In this clause, "Tea Board" means the Tea Board established under section 4 of the Tea Act, 1953.'.

Amendment of section 23.

4. In section 23 of the Income-tax Act,—

(*a*) in sub-section (*1*), for the second proviso, the following proviso shall be substituted, namely:—

"Provided further that the annual value as determined under this sub-section shall,—

(*a*) in the case of a building comprising one or more residential units, the erection of which is begun and completed after the 1st day of April, 1961, but before the 1st day of April, 1969, for a period of three years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(*i*) in respect of any residential unit whose annual value as so determined, does not exceed six hundred rupees the amount of such annual value;

(*ii*) in respect of any residential unit whose annual value as so determined exceeds six hundred rupees, an amount of six hundred rupees:

(*b*) in the case of a building comprising one or more residential units, the erection of which is begun and completed after the 31st day of March, 1969, for a period of five years from the date of completion of the building, be reduced by a sum equal to the aggregate of—

(*i*) in respect of any residential unit whose annual value as so determined, does not exceed one thousand two hundred rupees, the amount of such annual value;

(*ii*) in respect of any residential unit whose annual value as so determined exceeds one thousand two hundred rupees, an amount of one thousand two hundred rupees,

so, however, that the income in respect of any residential unit referred to in clause (*a*) or clause (*b*) is in no case a loss.";

(*b*) for sub-section (*2*), the following sub-section shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*2*) Where the property consists of one or more houses and such houses are in the occupation of the owner for the purposes of his own residence, the annual value of each such house and, where there are more than two such houses, the annual value of not more than two of such houses (which the assessee may, at his option, specify in this behalf) shall first be determined as in sub-section (*1*) and further be reduced, in each case, by one-half of the amount so determined or one thousand eight hundred rupees, whichever is less:

Provided that where the sum so arrived at exceeds ten per cent. of the total income of the owner (the total income for this purpose being computed without including therein any income from such property and before making any deduction under Chapter VIA), the excess shall be disregarded.

Explanation.—Where any such residential unit as is referred to in the second proviso to sub-section (*1*) is in the occupation of the owner for the purposes of his own residence, nothing contained in that proviso shall apply in computing the annual value of that residential unit.".

Amendment of section 32.

5. In section 32 of the Income-tax Act,—

(*a*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

'(*1A*) Where the business or profession is carried on in a building not owned by the assessee but in respect of which the assessee holds a lease or other right of occupancy and any capital expenditure is incurred by the assessee *bona fide* for the purpose of the business or profession after the 31st day of March, 1969 on any structure or work constructed or done by him in or in relation to, and by way of renovation or extension of, or improvement to, the building, then, in respect of depreciation of such structure or work, the following deductions shall, subject to

the provisions of section 34, be allowed—

(*i*) such percentage on the written down value of the structure or work as may in any case or class of cases be prescribed;

(*ii*) in the case of any such structure or work which is sold, discarded, demolished, destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building in the previous year (other than the previous year in which it is constructed or done) the amount by which the moneys payable in respect of such structure or work together with the amount of scrap value, if any, falls short of the written down value thereof:

Provided that such deficiency is actually written off in the books of the assessee.

Explanation.—For the purposes of this clause,—

(*i*) "moneys payable", in respect of any structure or work, includes—

(*a*) any insurance or compensation moneys payable in respect thereof;

(*b*) where the structure or work is sold, the price for which it is sold; and

(*ii*) "sold" shall have the meaning assigned to it in the *Explanation* to clause (*iii*) of sub-section (*1*).';

(*b*) in sub-section (*2*),—

(*i*) for the words "registered firm or an unregistered firm assessed as a registered firm", the words "registered or recognised firm or is an unregistered or unrecognised firm assessed as a registered firm or, as the case may be, recognised firm" shall be substituted with effect from the 1st day of April, 1970;

(*ii*) after the words, brackets and figure "of sub-section (*1*)", the words, brackets, figures and letter "or under clause (*i*) of sub-section (*1A*)" shall be inserted.

6. In section 34 of the Income-tax Act,— Amendment of section 34.

(*a*) in sub-section (*1*), after the words, brackets and figure "in sub-section (*1*)", the words, brackets, figure and letter "or sub-section (*1A*)" shall be inserted;

(*b*) in sub-section (*2*),—

(*i*) in clause (*i*),—

(*A*) after the words, brackets and figure "under sub-section (*1*)", the words, brackets, figure and letter "and sub-section (*1A*)" shall be inserted;

(*B*) for the words "plant or furniture", the words "plant, furniture, structure or work" shall be substituted;

(*ii*) in clause (*ii*),—

(*A*) after the words, brackets and figure "of sub-section (*1*)", the words, brackets, figures and letter "or clause (*i*) of sub-section (*1A*)" shall be inserted;

(*B*) for the words "plant or furniture", the words "plant, furniture, structure or work" shall be substituted.

Amendment of section 35.

7. In section 35 of the Income-tax Act, in clauses (*iv*) and (*v*) of sub-section (*2*), for the words, brackets and figures "sub-section (*1*) of section 32", the words, brackets, figures and letter "sub-section (*1*) or under sub-section (*1A*) of section 32" shall be substituted.

Insertion of new sections 35D, 35E and 35F. Amortisation of certain preliminary expenses of Indian companies.

8. After section 35C of the Income-tax Act, the following sections shall be inserted, namely:—

'35D. (*1*) Where an Indian company incurs, after the 31st day of March, 1969, any expenditure referred to in sub-section (*2*),—

(*i*) before the commencement of its business, or

(*ii*) after the commencement of its business, in connection with the extension of the industrial undertaking of the company or in connection with the setting up of a new industrial unit,

the company shall, in accordance with and subject to the provisions of this section, be allowed a deduction of a sum equal to one-tenth of such expenditure for each of the ten successive previous years beginning with the previous year in which the business of the company commences or, as the case may be, the previous year in which the extension of the industrial undertaking is completed or the new industrial unit commences production or operation.

(*2*) The expenditure referred to in sub-section (*1*) shall be expenditure falling under any one or more of the following items, namely:—

(*a*) legal charges for drafting the Memorandum and Articles of Association of the company;

(*b*) expenditure on printing of the Memorandum and Articles of Association;

(*c*) fees for registering the company under the provisions of the Companies Act, 1956; 35 1 of 1956.

(*d*) expenditure incurred for—

(*i*) preparation of a feasibility report,

(*ii*) preparation of a project report,

(*iii*) conducting market survey or any other survey necessary for the business of the company, or

(*iv*) consultancy fees for engineering services relating to the business of the company,

where the payment for such expenditure is, in each case, made to a concern which renders such services in the course of a business or profession carried on by it and which is approved for this purpose by the Central Government;

(*e*) legal charges incurred for drafting any agreement between the company and any other person for any purpose relating to the setting up or conduct of the business of the company;

(*f*) expenditure incurred in connection with the issue, for public subscription, of shares in or debentures of the company, being—

(*i*) under-writing commission;

(*ii*) brokerage;

(*iii*) charges for drafting, typing or printing and advertisement of the prospectus;

(*g*) such other items of expenditure (not being expenditure eligible for any allowance or deduction under any other provision of this Act) as may be prescribed.

(*3*) (*a*) Where the aggregate amount of the expenditure referred to in sub-section (*2*) exceeds the limit specified in clause (*b*), the excess shall be ignored for the purpose of computing the deduction allowable under sub-section (*1*).

(*b*) The limit referred to in clause (*a*) is—

(*i*) in a case referred to in clause (*i*) of sub-section (*1*), an amount calculated at two and one-half per cent. of the aggregate of the issued share capital, debentures and long-term borrowings of the company as on the last day of the previous year in which the business of the company commences;

(*ii*) in a case referred to in clause (*ii*) of sub-section (*1*), an amount calculated at two and one-half per cent. of the aggregate of the issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the extension of the industrial undertaking is completed or, as the case may be, the new industrial unit commences production or operation, in so far as such capital, debentures and long-term borrowings have been issued or obtained in connection with the extension of the industrial undertaking or the setting up of the new industrial unit of the company.

Explanation.—In this sub-section "long-term borrowings" means any moneys borrowed by the company from Government or the Industrial Finance Corporation of India or the Industrial Credit and Investment Corporation of India or any other financial institution which the Central Government may notify in this behalf in the Official Gazette or any banking institution (not being a financial institution notified as aforesaid) or any person in a country outside India, where the terms under which such moneys are borrowed provide for the repayment thereof during a period of not less than seven years.

(4) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation,—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

(5) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (2), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.

Amortisation of expenditure on shifting of industrial undertaking.

35E. (1) Where any assessee owning an industrial undertaking in India shifts such undertaking or any part thereof from the place where it is situated to any other place in India, at any time after the 31st day of March, 1969, and with prior intimation of such shifting to the Income-tax Officer, the assessee shall, in accordance with and subject to the provisions of this section, be allowed, for each of the ten successive previous years commencing from the previous year in which such shifting is completed, a deduction of a sum equal to one-tenth of the amount of the expenditure incurred in shifting the machinery and plant and other effects of the undertaking or part thereof and transferring its establishment to such other place.

(2) Where an assessee to whom any deduction has been allowed under sub-section (1) for any year in relation to the shifting of an industrial undertaking, or part thereof, owned by him, sells or otherwise transfers such undertaking or part within a period of four years immediately following the previous year in which the shifting was completed,—

(i) no deduction under sub-section (1) shall be allowed for the previous year in which such sale or transfer is effected or for any subsequent year; and

(ii) the amount or the aggregate of the amounts allowed as deduction under sub-section (1) shall be chargeable to income-tax as the income of the assessee of the previous year in which such sale or transfer is effected:

Provided that—

(a) this sub-section shall not apply in a case referred to in sub-section (3);

(b) the provisions of clause (ii) shall not apply where such undertaking or part thereof is sold or otherwise transferred to the Government, a local authority, a corporation established by a Central, State or Provincial Act or a Government company as defined in section 617 of the Companies Act, 1956. 1 of 1956.

(3) Where the undertaking of a company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in that sub-section, to an Indian company in a scheme of amalgamation,—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamated company for the previous year in which the amalgamation takes place;

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would have applied to the amalgamating company if the amalgamation had not taken place.

(4) Where a deduction under this section is claimed and allowed for any assessment year in respect of expenditure referred to in sub-section (1), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.

Deduction for expenditure on prospecting, etc., for certain minerals, in the case of Indian companies.

35F. (1) Where an Indian company engaged in any operations relating to prospecting for, or extraction or production of, any mineral, incurs, after the 31st day of March, 1969, any expenditure specified in sub-section (2), the company shall, in accordance with and subject to the provisions of this section, be allowed, for each one of the relevant previous years, a deduction of an amount equal to one-tenth of the amount of such expenditure.

(2) The expenditure referred to in sub-section (1) is that incurred by the company after the date specified in that sub-section at any time during the year of commercial production and any one or more of the four financial years immediately preceding that year, wholly and exclusively on any operations relating to prospecting for any mineral or group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule or on the development of a mine or other natural deposit of any such mineral or group of associated minerals:

Provided that there shall be excluded from such expenditure any portion thereof which is met directly or indirectly by any other person or authority and any sale, salvage, compensation or insurance moneys realised by the company in respect of any property or rights brought into existence as a result of the expenditure.

(3) Any expenditure—

(i) on the acquisition of the site of the source of any mineral or group of associated minerals referred to in sub-section (2) or of any rights in or over such site;

(ii) on the acquisition of the deposits of such mineral or group of associated minerals or of any rights in or over such deposits; or

(iii) of a capital nature in respect of any building, machinery, plant or furniture for which allowance by way of depreciation is admissible under section 32,

shall not be deemed to be expenditure incurred by the company for any of the purposes specified in sub-section (2).

(4) The deduction to be allowed under sub-section (1) for any relevant previous year shall be of an amount equal to one-tenth of the expenditure (hereinafter referred to as the instalment) or of such amount as is sufficient to reduce to nil the income (as computed before the deduction under this section) of that previous year arising from the commercial exploitation of the mineral or any one or more of the minerals in a group of associated minerals as aforesaid, in respect of which the expenditure was incurred, whichever is less:

Provided that the amount of the instalment relating to any relevant previous year, to the extent to which it remains unallowed, shall be carried forward and added to the instalment relating to the previous year next following and deemed to be part of that instalment, and so on, for succeeding previous years, so, however, that no part of any instalment shall be carried forward beyond the tenth previous year as reckoned from the year of commercial production.

(5) For the purposes of this section,—

(a) "operation relating to prospecting" means any operation undertaken for the purpose of exploring, locating or proving deposits of any mineral, and includes any such operation which proves to be infructuous or abortive;

(b) "year of commercial production" means the previous year in which as a result of any operation relating to prospecting, commercial production of any mineral or any one or more of the minerals in a group of associated minerals specified in Part A or Part B, respectively, of the Seventh Schedule, commences;

(c) "relevant previous years" means the ten previous years beginning with the year of commercial production.

(6) Where the undertaking of an Indian company which is entitled to the deduction under sub-section (1) is transferred, before the expiry of the period of ten years specified in sub-section (1), to another Indian company in a scheme of amalgamation—

(i) no deduction shall be admissible under sub-section (1) in the case of the amalgamating company for the previous year in which the amalgamation takes place; and

(ii) the provisions of this section shall, as far as may be, apply to the amalgamated company as they would apply to the amalgamating company if the amalgamation had not taken place.

(7) Where a deduction under this section is claimed and allowed for any assessment year in respect of any expenditure referred to in sub-section (2), deduction shall not be allowed in respect of such expenditure under any other provision of this Act for the same or any other assessment year.'.

9. In section 38 of the Income-tax Act, in sub-section (*2*), for the words, brackets and figures "sub-section (*1*) of section 32", the words, brackets, figures and letter "sub-section (*1*) and sub-section shall be substituted. Amendment of section 38.

10. In section 41 of the Income-tax Act,— Amendment of section 41.

(*a*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

'(*2A*) Where any structure or work in or in connection with a building, being the structure or work referred to in sub-section (*1A*) of section 32, is sold, discarded, demolished, destroyed or is surrendered as a result of the determination of lease or other right of occupancy in respect of the building and the moneys payable in respect of such structure or work together with the amount of scrap value, if any, exceed the written down value, so much of the excess as does not exceed the difference between the actual cost of the structure or work and its written down value shall be chargeable to income-tax as income of the business or profession of the previous year in which the moneys payable for the structure or work became due.

Explanation 1.—Where the moneys payable in respect of the structure or work referred to in this sub-section become due in a previous year in which the business or profession for the purpose of which the structure or work was constructed or done is no longer in existence, the provisions of this sub-section shall apply as if the business or profession were in existence in that previous year.

Explanation 2.—For the purposes of this sub-section, the expression "moneys payable" and the expression "sold" shall have the same meanings as in sub-section (*1A*) of section 32.";

(*b*) in sub-section (*5*), after the word, brackets and figure "sub-section (*2*), the word, brackets, figure and letter "sub-section (*2A*)," shall be inserted.

11. In section 43 of the Income-tax Act, in *Explation* 1 and *Explanation* 4 to clause (*1*), for the words, brackets and figures "sub-section (*1*) of section 32", the words, brackets, figures and letter "sub-section (*1*), or sub-section (*1A*), of section 32" shall be substituted. Amendment of section 43.

12. In section 55 of the Income-tax Act, in clause (*a*) of sub-section (*1*), for the words, brackets and figures "sub-section (*1*) of section 32", the words, brackets, figures and letter "sub-section (*1*), or sub-section (*1A*), of section 32" shall be substituted. Amendment of section 55.

13. In section 57 of the Income-tax Act, in sub-clause (*ii*), for the words, brackets and figures "sub-sections (*1*) and (*2*) of section 32", the words, brackets, figures and letter "sub-sections (*1*), (*1A*) and (*2*) of section 32" shall be substituted. Amendment of section 57.

Amendment of section 64.

14. Section 64 of the Income-tax Act shall, with effect from the 1st day of April, 1970, be re-numbered as sub-section (*1*) of that section, and after sub-section (*1*) as so re-numbered, the following sub-section shall be inserted, namely:—

'(*2*) Where, in the case of an individual being the member of a Hindu undivided family, any property having been the separate property of the individual has, at any time after the 31st day of March, 1965, been converted by the individual into property belonging to the family through the act of impressing such separate property with the character of property belonging to the family or throwing it into the common stock of the family (such property being hereinafter referred to as the converted property), then, notwithstanding anything contained in any other provision of this Act or in any other law for the time being in force, for the purpose of computation of the total income of the individual under this Act for any assessment year commencing on or after the 1st day of April, 1970,—

(*a*) the individual shall be deemed to have transferred the converted property, through the family, to the members of the family for being held by them jointly;

(*b*) the income derived from the converted property or any part thereof, in so far as it is attributable to the interest of the individual in the property of the family, shall be deemed to arise to the individual and not to the family;

(*c*) the income derived from the converted property or any part thereof, in so far as it is attributable to the interest of the spouse or any minor son of the individual in the property of the family, and where the converted property has been the subject matter of a partition (partial or total) amongst the members of the family, also the income derived from such converted property as is received by the spouse or minor son on partition shall be deemed to arise to the spouse or the minor son from assets transferred indirectly by the individual to the spouse or minor son and the provisions of sub-section (*1*) shall, so far as may be, apply accordingly:

Provided that the income referred to in clause (*b*) or clause (*c*) shall, on being included in the total income of the individual, be excluded from the total income of the family or, as the case may be, the spouse or minor son of the individual:

Provided further that the provisions of this sub-section shall not be applied if the Income-tax Officer is of opinion that such a course is not likely to result in a benefit to the revenue.

Explanation.—For the purposes of sub-section (*2*),—

(*1*) "property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted from one species into another by any method, such other property;

(2) "interest of the individual in the property of the family" and "interest of the spouse or any minor son of the individual in the property of the family" mean, respectively, the proportion in which the individual or, as the case may be, the spouse or minor son would be entitled to share the property of the family if there had been a total partition in the family as on the last day of the previous year of the family relevant to the assessment year for which the individual is to be assessed under sub-section (2).'.

Amendment of section 67.

15. In section 67 of the Income-tax Act,—

(*a*) in clause (*a*) of sub-section (*1*), for the words "and, where the firm is a registered firm, the income-tax, if any, payable by it in respect of the total income of the previous year", the following shall be substituted with effect from the 1st day of April, 1970, namely:—

"and, where the firm is a registered firm or, as the case may be, a recognised firm or an unrecognised firm assessed as a recognised firm under the provisions of clause (*b*) of section 183A, the income-tax, if any, payable by it in respect of the total income of the previous year";

(*b*) in sub-section (*4*), for the words, brackets, letter and figures "income of a registered firm or a firm treated as registered in accordance with the provisions of clause (*b*) of section 183", the following shall be substituted with effect from the 1st day of April, 1970, namely:—

"income of a registered firm or a firm treated as registered in accordance with the provisions of clause (*b*) of section 183 or, as the case may be, a recognised firm or an unrecognised firm assessed as a recognised firm in accordance with the provisions of clause (*b*) of section 183A".

Amendment of section 75.

16. In section 75 of the Income-tax Act (including the marginal note to that section), for the word "registered" wherever it occurs, the words "registered or recognised" shall be substituted with effect from the 1st day of April, 1970.

Substitution of new section for section 76.

17. For section 76 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1970, namely:—

Losses of unregistered firm assessed as registered firm or, as the case may be, of unrecognised firms assessed as recognised firms.

"76. In the case of—

(*a*) an unregistered firm assessed under the provisions of clause (*b*) of section 183 in respect of the assessment year commencing on the 1st day of April, 1969 or any earlier assessment year; or

(*b*) an unrecognised firm assessed as a recognised firm under the provisions of clause (*b*) of section 183A in respect of the assessment year commencing on the 1st day of April, 1970 or any subsequent assessment year,

its losses for that assessment year shall be dealt with as if it were a registered firm or a recognised firm, as the case may be.".

Amendment of section 77.

18. In section 77 of the Income-tax Act,—

(*a*) in sub-section (*1*). after the words, brackets, letter and figures "under the provisions of clause (*b*) of section 183", the words, brackets, letters and figures "or an unrecognised firm which has not been assessed as a recognised firm under the provisions of clause (*b*) of section 183A" shall be inserted with effect from the 1st day of April, 1970;

(*b*) in sub-section (*2*), after the words, brackets, letter and figures "under the provisions of clause (*b*) of section 183", the words, brackets, letters and figures "or of an unrecognised firm which has not been assessed as a recognised firm under the provisions of clause (*b*) of section 183A" shall be inserted with effect from the 1st day of April, 1970.

Amendment section 80A.

19. In section 80A of the Income-tax Act, in sub-section (*3*), after the words, figures and letter "section 80L or", the words, figures and letters "section 80QQ or" shall be inserted with effect from the 1st day of April, 1970.

Amendment of section 80B.

20. In section 80B of the Income-tax Act, in clause (5), the words and figures "and without applying the provisions of section 64" shall be, and shall be deemed to have been, omitted with effect from the 1st day of April, 1968.

Amendment of section 80E.

21. In section 80E of the Income-tax Act, in sub-section (*1*), for the words, figures and letter "section 80L or", the words, figures and letters be substituted with effect from the 1st day of April, 1970.

Amendment of section 80G.

22. In section 80G of the Income-tax Act, in sub-section (4), for the proviso, the following proviso shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1968, namely:—

"Provided that where such aggregate includes any donations referred to in clause (*b*) of sub-section (*2*) and such aggregate exceeds the limit of two hundred thousand rupees specified in this sub-section, then such limit shall be raised to cover that portion of the donations aforesaid which is equal to the difference between such aggregate and the said limit, so, however, that the limit so raised shall not exceed ten per cent. of the assessee's gross total income as reduced as aforesaid, or five hundred thousand rupees, whichever is less.".

Substitution of new section for section 80K. Deduction in respect

23. For section 80K of the Income-tax Act, the following section shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1968, namely:—

"80K. Where the gross total income of an assessee, being—

(*a*) the owner of any share or shares in a company, or

(*b*) a person who is chargeable to tax under this Act on the income by way of dividends on any share or shares in a company owned by any other person, of dividends attributable to profits and gains from new industrial undertakings or ships or hotel business.

includes any income by way of dividends paid or deemed to have been paid by the company in respect of such share or shares, there shall, subject to any rules that may be made by the Board in this behalf, be allowed, in computing his total income, a deduction from such income by way of dividends of an amount equal to such part thereof as is attributable to the profits and gains derived by the company from an industrial undertaking or ship or the business of a hotel, on which no tax is payable by the company under this Act for any assessment year commencing prior to the 1st day of April, 1968, or in respect of which the company is entitled to a deduction under section 80J for the assessment year commencing on the 1st day of April, 1968, or for any subsequent assessment year.".

24. After section 80Q of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1970, namely:— Insertion of new section 80QQ.

'80QQ. (*1*) Where in the case of an assessee the gross total income of the previous year relevant to the assessment year commencing on the 1st day of April, 1970, or to any one of the four assessment years next following that assessment year, includes any profits and gains derived from a business carried on in India of printing and publication of books or publication of books, there shall, in accordance with and subject to the provisions of this section, be allowed, in computing the total income of the assessee, a deduction from such profits and gains of an amount equal to twenty per cent. thereof. Deduction in respect of profits and gains from the business of publication of books.

(*2*) In a case where the assessee is entitled also to the deduction under section 80H or section 80J or section 80P, in relation to any part of the profits and gains referred to in sub-section (*1*), the deduction under sub-section (*1*) shall be allowed with reference to such profits and gains included in the gross total income as reduced by the deductions under sections 80H, 80J and 80P.

(*3*) For the purposes of this section, "books" shall not include newspapers, journals, magazines, diaries, brochures, tracts, pamphlets and other publications of a similar nature, by whatever name called.'.

25. For section 80U of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1970, namely:— Substitution of new section for section 80U.

"80U. In computing the total income of an individual, being a resident, who, as at the end of the previous year,— Deduction in the case of totally blind or physically handicapped resident persons.

(*i*) is totally blind, or

(*ii*) is subject to or suffers from a permanent physical disability (other than blindness) which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation,

there shall be allowed a deduction of a sum of two thousand rupees:

Provided that such individual produces before the Income-tax Officer, in respect of the first assessment year for which deduction is claimed under this section,—

(*a*) in a case referred to in clause (*i*), a certificate as to his total blindness from a registered medical practitioner being an oculist; and

(*b*) in a case referred to in clause (*ii*), a certificate as to the permanent physical disability referred to in the said clause from a registered medical practitioner.".

Amendment of section 86.

26. In section 86 of the Income-tax Act, in clause (*iii*), for the words "unregistered firm", the words "unregistered or unrecognised firm" shall be substituted with effect from the 1st day of April, 1970.

Amendment of section 89.

27. In section 89 of the Income-tax Act, in sub-sections (*1*) and (*2*), for the words "on an application made in this behalf by the assessee, grant such relief as he considers appropriate.", the following shall be substituted, namely:—

"on an application made to him in this behalf, grant such relief as may be prescribed.".

Amendment of section 112A.

28. In section 112A of the Income-tax Act,—

(*a*) for clauses (*a*) and (*b*), the following clauses shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1968, namely:—

"(*a*) the amount of income-tax payable on the total income as reduced by the amount of such inclusion, had the total income so reduced been his total income; *plus*

(*b*) the amount of income-tax calculated on the amount of such interest included in the total income at the average rate of income-tax which would have been applicable to the total income if the amount of such interest and the amount of compensation or other payment referred to in clause (*ii*) of section 28 of the capital gains, if any, had not formed part of it.";

(*b*) *Explanation* 1 shall be, and shall be deemed to have been, omitted with effect from the 1st day of April, 1969.

Substitution of new section for section 119.

29. For section 119 of the Income-tax Act, the following section shall be, and shall be deemed to have been, substituted with effect from the 1st day of April, 1969, namely:—

Instructions to subordinate authorities.

"119. (1) The Board may, from time to time, issue such orders, instructions and directions to other Income-tax authorities as it may deem fit for the proper administration of this Act, and such authorities and all other persons employed in the execution of this Act shall observe and follow such orders, instructions and directions of the Board:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions.

(2) Without prejudice to the generality of the foregoing power,—

(a) the Board may, if it considers it necessary or expedient so to do, for the purpose of proper and efficient management of the work of assessment and collection of revenue, issue, from time to time (whether by way of relaxation of any of the provisions of sections 143, 144, 147, 148, 154, 155, 210, 271 and 273 or otherwise), general or special orders in respect of any class of incomes or class of cases, setting forth directions or instructions (not being prejudicial to assessees) as to the guidelines, principles or procedures to be followed by other income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties;

(b) the Board may, if it considers it desirable or expedient so to do for avoiding genuine hardship in any case or class of cases, by general or special order, authorise the Commissioner or the Income-tax Officer to admit an application or claim for any exemption, deduction, refund or any other relief under this Act after the expiry of the period specified by or under this Act for making such application or claim.

(3) Every Income-tax Officer employed in the execution of this Act shall observe and follow such instructions as may be issued to him for his guidance by the Director of Inspection or by the Commissioner or by the Inspecting Assistant Commissioner within whose jurisdiction he performs his functions.".

30. In section 139 of the Income-tax Act,— Amendment of section 139.

(a) in sub-section (1), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 1970 namely:—

"Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date is so extended, interest shall be chargeable in accordance with the provisions of sub-section (8).";

(b) sub-section (1A) shall be omitted with effect from the 1st day of April, 1970;

(c) in sub-section (2), for the proviso, the following proviso shall be substituted with effect from the 1st day of April, 1970, namely:—

"Provided that, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, extend the date for furnishing the return, and, notwithstanding that the date for furnishing the return, whether fixed originally or on extension, falls beyond the 30th day of September, referred to in sub-section (8), interest shall be chargeable in accordance with the provisions of the said sub-section.";

(d) in sub-section (3), after the words, brackets and figure "within the time allowed under sub-section (1)", the words "or

within such further time which, on an application made in the prescribed manner, the Income-tax Officer may, in his discretion, allow" shall be inserted with effect from the 1st day of April, 1970;

(*e*) in sub-section (*4*), in clause (*a*), for the words, brackets and figures "and the provisions of clause (*iii*) of the proviso to sub-section (*1*) shall apply in every such case", the words, brackets and figure "and the provisions of sub-section (*8*) shall apply in every such case" shall be substituted with effect from the 1st day of April, 1970;

(*f*) for sub-section (*8*), the following sub-section shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*8*) (*a*) Where the return under sub-section (*1*) or sub-section (*2*) or sub-section (*4*) for an assessment year is furnished after the 30th day of September of the assessment year, or is not furnished, then [whether or not the Income-tax Officer has extended the date for furnishing the return under sub-section (*1*) or sub-section (*2*)], the assessee shall be liable to pay simple interest at nine per cent. per annum, reckoned from the 1st day of October of the assessment year to the date of the furnishing of the return or, where no return has been furnished, the date of completion of the assessment under section 144, on the amount of the tax payable on the total income as determined on regular assessment, as reduced by the advance tax, if any, paid and any tax deducted at source:

Provided that in the case of any person whose total income includes any income from business or profession, the previous year in respect of which expired after the 31st day of December of the year immediately preceding the assessment year, such interest shall be reckoned from the 1st day of January instead of the 1st day of October of the assessment year:

Provided further that the Income-tax Officer may, in such cases and under such circumstances as may be prescribed, reduce or waive the interest payable by any person under this sub-section.

Explanation.—(*a*) For the purposes of this sub-section, where the assessee is a registered firm or an unregistered firm which has been assessed under clause (*b*) of section 183, or, as the case may be, a recognised firm or an unrecognised firm which has been assessed under clause (*b*) of section 183A as a recognised firm, the tax payable on the total income shall be the amount of tax which would have been payable if the firm had been assessed as an unregistered firm or, as the case may be, an unrecognised firm.

(*b*) Where as a result of an order under section 154 or section 155 or section 250 or section 254 or section 260 or section 262 or section 264, the amount of tax on which interest was payable under this sub-section has been reduced, the interest shall be reduced accordingly, and the excess interest paid, if any, shall be refunded.".

31. For section 140A of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1970, namely:— Substitution of new section for section 140A.

"140A. (*1*) Where a return has been furnished under section 139 and the tax payable on the basis of that return as reduced by any tax already paid under any provision of this Act exceeds one hundred rupees, the assessee shall pay the tax so payable within thirty days of furnishing the return. Self assessment.

(*2*) After a regular assessment under section 143 or section 144 has been made, any amount paid under sub-section (*1*) shall be deemed to have been paid towards such regular assessment.

(*3*) If any assessee fails to pay the tax or any part thereof in accordance with the provisions of sub-section (*1*), he shall, unless a regular assessment under section 143 or section 144 has been made before the expiry of the thirty days referred to in that sub-section, be liable, by way of penalty, to pay such amount as the Income-tax Officer may direct, and in the case of a continuing failure, such further amount or amounts as the Income-tax Officer may, from time to time, direct, so, however, that the total amount of penalty does not exceed fifty per cent. of the amount of such tax or part, as the case may be:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard.".

32. Section 141 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1970. Omission of section 141.

33. In section 141A of the Income-tax Act,— Amendment of section 141A.

(*a*) in sub-section (*1*), after the words "such return, accounts and documents", the words, brackets and figure "and with reference to the record of the assessments, if any, of past years, after making such adjustments to the income or loss declared in the return as are required to be made under sub-section (*2*)" shall be inserted with effect from the 1st day of April, 1970;

(*b*) for sub-section (*2*), the following sub-section shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*2*) In making any assessment under this section, the Income-tax Officer shall make the following adjustments to the income or loss declared in the return, that is to say, he shall—

(*i*) rectify any arithmetical errors in the return, accounts and documents referred to in sub-section (*1*);

(*ii*) allow any deduction, allowance or relief which, on the basis of the information available in such return, accounts and documents, is, *prima facie*, admissible, but is not claimed in the return;

(*iii*) disallow any deduction, allowance or relief claimed in the return which, on the basis of the information available in such return, accounts and documents, is, *prima facie*, inadmissible;

(*iv*) give due effect to the allowance referred to in sub-section (*2*) of section 32, the deduction referred to in clause (*ii*) of sub-section (*2*) of section 33 or clause (*ii*) of

sub-section (2) of section 33A or clause (*i*) of sub-section (2) of section 35 or sub-section (*1*) of section 35A or sub-section (*1*) of section 35D or sub-section (*1*) of section 35E or the proviso to clause (*ix*) of sub-section (*1*) of section 36, any loss carried forward under sub-section (*1*) of section 72 or sub-section (*2*) of section 73 or sub-section (*1*) of section 74 and the deficiency referred to in sub-section (*3*) of section 80J, as computed, in each case, in the regular assessment, if any, for the earlier assessment year or years.";

(*c*) in sub-section (*3*), for the words "A firm may be assessed", the following shall be substituted with effect from the 1st day of April, 1970, namely:—

"A firm may, in relation to the assessment year commencing on the 1st day of April, 1969, or any earlier assessment year, be assessed";

(*d*) after sub-section (*3*), the following sub-section shall be inserted with effect from the 1st day of April, 1970, namely:—

"(*3A*) A firm may, in relation to the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year be assessed under sub-section (1) as an unrecognised firm, but where the conditions specified in sub-section (*1*) or, as the case may be, sub-section (*2*) of section 186A are fulfilled in relation to that assessment year, it shall be assessed as a recognised firm.".

Substitution of new section for section 143.

34. For section 143 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1970, namely:—

Assessment

'143. (*1*) (*a*) Where a return has been made under section 139, the Income-tax Officer may, without requiring the presence of the assessee or the production by him of any evidence in support of the return, make an assessment of the total income or loss of the assessee on the basis of his return and the accounts and documents, if any, accompanying it, and with reference to the record of the assessments, if any, of past years, after making such adjustments to the income or loss declared in the return as are required to be made under clause (*b*), and determine the sum payable by the assessee or refundable to him on the basis of such assessment.

(*b*) In making an assessment of the total income or loss of the assessee under clause (*a*), the Income-tax Officer shall make the following adjustments to the income or loss declared in the return, that is to say, he shall,—

(*i*) rectify any arithmetical errors in the return, accounts and documents referred to in clause (*a*);

(*ii*) allow any deduction, allowance or relief which, on the basis of the information available in such return, accounts and documents, is, *prima facie*, admissible, but is not claimed in the return;

(*iii*) disallow any deduction, allowance or relief claimed in the return which, on the basis of the information available in such return, accounts and documents, is, *prima facie*, inadmissible;

(*iv*) give due effect to the allowance referred to in sub-section (*2*) of section 32, the deduction referred to in clause (*ii*) of sub-section (*2*) of section 33 or clause (*ii*) of sub-section (*2*) of section 33A or clause (*i*) of sub-section (*2*) of section 35 or sub-section (*1*) of section 35A or sub-section (*1*) of section 35D or sub-section (*1*) of section 35E or the proviso to clause (*ix*) of sub-section (*1*) of section 36, any loss carried forward under sub-section (*1*) of section 72 or sub-section (*2*) of section 73 or sub-section (*1*) of section 74 and the deficiency referred to in sub-section (*3*) of section 80J, as computed, in each case, in the regular assessment, if any, for the earlier assessment year or years.

(*2*) Where a return has been made under section 139, and whether or not an assessment has been made under sub-section (*1*), if the Income-tax Officer considers it necessary or expedient to verify the correctness and completeness of the return by requiring the presence of the assessee or the production of evidence in this behalf, he shall serve on the assessee a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which the assessee may rely in support of the return.

(*3*) On the day specified in the notice issued under sub-section (*2*), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Income-tax Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Income-tax Officer shall—

(*a*) in a case where an assessment has been made under sub-section (*1*), if he is of opinion that such assessment is incorrect, inadequate or incomplete in any material respect, by an order in writing, make a fresh assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment;

(*b*) in any other case, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refundable to him on the basis of such assessment.

Explanation.—For the purposes of this section,—

(*1*) an assessment under sub-section (*1*) shall be deemed to be incorrect, inadequate or incomplete in a material respect if—

(*a*) the amount of the total income as determined under sub-section (*1*) is greater or smaller than the amount of the total income on which the assessee is properly chargeable under this Act to tax; or

(*b*) the amount of the tax payable as determined under sub-section (*1*) is greater or smaller than the amount of the tax properly payable under this Act by the assessee; or

(*c*) the amount of any loss as determined under sub-section (*1*) is greater or smaller than the amount of the loss, if any, determinable under this Act on a proper computation; or

(*d*) the amount of any depreciation allowance, development rebate or any other allowance or deduction as determined under sub-section (*1*) is greater or smaller than the amount of the depreciation allowance, development rebate or, as the case may be, other allowance or deduction properly allowable under this Act; or

(*e*) the amount of the refund as determined under sub-section (*1*) is greater or smaller than the amount of the refund, if any, due under this Act on a proper computation; or

(*f*) the status in which the assessee has been assessed under sub-section (*1*) is different from the status in which the assessee is properly assessable under this Act;

(*2*) "status", in relation to an assessee, means the classification of the assessee as an individual, a Hindu undivided family, or any other category of persons referred to in clause (*31*) of section 2, and where the assessee is a firm, its classification as a registered firm or an unregistered firm or, as the case may be, a recognised firm or an unrecognised firm.'.

Amendment of section 153.

35. In section 153 of the Income-tax Act,—

(*a*) after sub-section (*2*), the following sub-section shall be inserted with effect from the 1st day of April, 1970, namely:—

"(*2A*) Notwithstanding anything contained in sub-sections (*1*) and (*2*), in relation to the assessment year commencing on the 1st day of April, 1970, and any subsequent assessment year, an order of fresh assessment under section 146 or in pursuance of an order under section 250, section 254, section 263 or section 264,, setting aside or cancelling an assessment, may be made at any time before the expiry of two years from the end of the financial year in which the order under section 146 cancelling the assessment is passed by the Income-tax Officer or the order under section 250 or section 254 is received by the Commissioner or, as the case may be, the order under section 263 or section 264 is passed by the Commissioner.";

(*b*) in sub-section (*3*), after the words "assessments, reassessments and re-computations which may", the words, brackets, figure and letter ", subject to the provisions of sub-section (*2A*)," shall be inserted with effect from the 1st day of April, 1970.

Amendment of section 154.

36. In section 154 of the Income-tax Act, in sub-section (7), after the word and figures "section 186", the words, brackets, figures and letter "or sub-section (*4*) of section 186B read with sub-section (*3*) of that section" shall be inserted with effect from the 1st day of April, 1970.

Substitution of new section for section 158. Intimation of assessment of firm.

37. For section 158 of the Income-tax Act, the following section shall be substituted with effect from the 1st day of April, 1970, namely:—

"158. Whenever a registered firm or a recognised firm is assessed, or an unregistered firm is assessed under the provisions of clause (*b*) of section 183 or an unrecognised firm is assessed under the provisions of clause (*b*) of section 183A, the Income-tax Officer shall notify to

the firm, by an order in writing, the amount of its total income assessed and the apportionment thereof between the several partners.".

Amendment of section 182.

38. In section 182 of the Income-tax Act, in sub-section (*1*), in the opening paragraph, for the words "in the case of a registered firm", the words, figures and letters "in the case of a registered firm, in respect of the assessment for the assessment year commencing on the 1st day of April, 1969, or any earlier assessment year" shall be substituted with effect from the 1st day of April, 1970.

Insertion of new section 182A. Assessment of recognised firms.

39. After section 182 of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1970, namely:—

"182A. (*1*) Notwithstanding anything contained in sections 143 and 144 and subject to the provisions of sub-section (*3*), in respect of the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, in the case of a recognised firm, after assessing the total income of the firm,—

(*i*) the income-tax payable by the firm itself shall be determined; and

(*ii*) the share of each partner in the income of the firm shall be included in his total income and assessed to tax accordingly.

(*2*) If such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of sections 70 to 75.

(*3*) When any of the partners of a recognised firm is a non-resident, the tax on his share in the income of the firm shall be assessed on the firm at the rate or rates which would be applicable if it were assessed on him personally, and the tax so assessed shall be paid by the firm.

(*4*) A recognised firm may retain out of the share of each partner in the income of the firm a sum not exceeding thirty per cent. thereof until such time as the tax which may be levied on the partner in respect of that share is paid by him; and where the tax so levied cannot be recovered from the partner, whether wholly or in part, the firm shall be liable to pay the tax to the extent of the amount retained or could have been so retained.".

Amendment of section 183.

40. In section 183 of the Income-tax Act, for the words "In the case of an unregistered firm", the words, figures and letters "In the case of an unregistered firm, in respect of assessment for the assessment year commencing on the 1st day of April, 1969, or any earlier assessment year" shall be substituted with effect from the 1st day of April, 1970.

Insertion of new section 183A. Assessment of unrecognised firms.

41. In Chapter XVI of the Income-tax Act, under the sub-heading "*A.—Assessment of firms*", after section 183, the following section shall be inserted with effect from the 1st day of April, 1970, namely:—

"183A. In respect of the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, in the case of an unrecognised firm, the Income-tax Officer—

(*a*) may determine the tax payable by the firm itself on the basis of the total income of the firm; or

(*b*) if, in his opinion, the aggregate amount of the tax payable by the firm if it were assessed as a recognised firm and of the tax payable by the partners individually if the firm were so assessed would be greater than the aggregate amount of the tax payable by the firm under clause (*a*) and of the tax which would be payable by the partners individually, may proceed to make the assessment under clause (*ii*) of sub-section (*1*) of section 182A as if the firm were a recognised firm; and, where the procedure specified in this clause is applied to any unrecognised firm, the provisions of sub-sections (*2*), (*3*) and (*4*) of section 182A shall apply thereto as they apply in relation to a recognized firm.".

Amendment of section 184.

42. In section 184 of the Income-tax Act, after sub-section (*8*), the following sub-section shall be inserted with effect from the 1st day of April, 1970, namely:—

"(*9*) The provisions of this section and sections 185 and 186 shall not apply in respect of the assessment for the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year.".

Insertion of new sections 186A and 186B.

43. After section 186 of the Income-tax Act, the following sub-heading and sections shall be inserted with effect from the 1st day of April, 1970, namely:—

'*BB.—Recognition of firms*

Recognized firm.

186A. (*1*) Subject to the provisions of this section, in respect of the assessment for the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, a firm shall be a recognised firm where the following conditions are fulfilled, namely:—

(*a*) the partnership as in existence during the previous year, is evidenced by an instrument and the individual shares of the partners are specified in that instrument;

(*b*) the firm is registered with the Registrar—

(*i*) in a case where the firm was constituted at any time prior to the previous year relevant to the assessment year commencing on the 1st day of April, 1970, by the 31st day of March, 1970;

(*ii*) in any other case, within six months of the commencement of the business or profession of the firm or by the 31st day of March, 1970, whichever is later:

Provided that where such registration is effected after the expiry of the period specified in this clause, but before the expiry of the time allowed under sub-section (*1*) or sub-section (*2*) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year for which the firm seeks to be assessed as a recognised firm, the Income-tax Officer may, if he is satisfied on an application made by the firm in this behalf that it was prevented by good and sufficient reasons from getting itself so registered within the time specified in this clause, condone, with the previous

approval of the Commissioner, the delay in such registration, and, thereupon, the firm shall be deemed to have fulfilled the condition in this clause in relation to that assessment year and any subsequent year:

Provided further that in the case of any firm which carries on its business or profession exclusively in an area or areas to which the Indian Partnership Act, 1932, does not extend or an area or areas to which the provisions of Chapter VII of that Act do not apply by virtue of a notification issued by a State Government under section 56 of the said Act, the condition specified in this clause shall not apply to such firm; 9 of 1932.

(c) none of the partners of the firm has, at any time during the previous year, any right, title or interest in the share in the income or property of the firm, as such, of any other partner of the firm:

Provided that the condition specified in this clause shall not apply as between the partners of a firm who are related to one another as husband and wife or parent and child (being a minor);

(d) the profit or, as the case may be, the loss of the firm of the previous year is credited to, or divided amongst, the partners in accordance with their respective shares as specified in the instrument of partnership;

(e) the firm furnishes, along with its return of income for the first assessment year for which it seeks to be assessed as a recognised firm, or within such extended time as the Income-tax Officer may allow for this purpose,—

(*i*) the original instrument evidencing the partnership, together with a copy thereof;

(*ii*) except in the case of a firm referred to in the second proviso to clause (*b*), an extract of the entry in the Register of Firms relating to the registration of the firm, duly certified by the Registrar; and

(*iii*) a declaration in the prescribed form in respect of such matters as may be specified therein, verified in the prescribed manner by all the partners (not being minors) personally, or in the case of a dissolved firm, by all persons (not being minors) who were partners in the firm immediately before its dissolution and by the legal representative of any such partner who is deceased:

Provided that where the Income-tax Officer is satisfied that for good and sufficient reasons the original instrument cannot be conveniently produced, he may accept a copy of it certified in writing to be a correct copy by all the partners (not being minors) personally, or, in the case of a dissolved firm, by the persons referred to in sub-clause (*iii*).

(2) Where at any time during the previous year relevant to the assessment year commencing on the 1st day of April, 1970, or any subsequent assessment year, any change takes place in the constitution of the firm or in the shares of the partners as evidenced by the

instrument of partnership under which the firm was constituted, the firm shall qualify as a recognised firm in relation to the assessment year next following the previous year in which such change takes place and any subsequent assessment year if the following further conditions are fulfilled, namely:—

(*a*) the change in the constitution of the firm or in the shares of the partners is evidenced by an instrument and the individual shares of the partners are specified in that instrument;

(*b*) except in the case of a firm referred to in the second proviso to clause (*b*) of sub-section (*1*), such change is recorded in the Register of Firms within six months of the date on which the change is effective or the 31st day of March, 1970, whichever is later:

Provided that where such change is so recorded after the expiry of the period specified in this clause, but before the expiry of the time allowed under sub-section (*1*) or sub-section (2) of section 139 (whether fixed originally or on extension) for furnishing the return of income for the assessment year for which the firm (as constituted after such change) seeks to be assessed as a recognised firm, the Income-tax Officer may, if he is satisfied on an application made by the firm in this behalf that it was prevented by good and sufficient reasons from having the change so recorded within the time specified in this clause, condone, with the previous approval of the Commissioner, the delay and thereupon the firm shall be deemed to have fulfilled the condition in this clause in relation to that assessment year and any subsequent assessment year;

(*c*) none of the partners of the firm (as constituted after such change) has any right, title, or interest in the share in the income or property of the firm, as such, of any other partner of the firm:

Provided that the condition specified in this clause shall not apply as between the partners of a firm who are related to one another as husband and wife or parent and child (not being a minor);

(*d*) the profit or, as the case may be, the loss of the firm (as constituted after such change) of the previous year is credited to, or divided amongst, the partners of the firm in accordance with their respective shares as specified in the instrument referred to in clause (*a*);

(*e*) the firm (as constituted after such change) furnishes, along with its return of income for the first assessment year for which it seeks to be assessed as a recognised firm or within such extended time as the Income-tax Officer may allow for this purpose,—

(*i*) the original of the instrument referred to in clause (*a*);

(*ii*) except in the case of a firm referred to in the second proviso to clause (*b*) of sub-section (*1*), an extract of the

entry in the Register of Firms recording such change, duly certified by the Registrar; and

(*iii*) a declaration in the prescribed form in respect of such matters as may be specified therein, verified in the prescribed manner by all the partners (not being minors) personally, or in the case of a dissolved firm, by the persons referred to in sub-clause (*iii*) of clause (*e*) of sub-section (*1*):

Provided that where the Income-tax Officer is satisfied that for good and sufficient reasons the original instrument cannot be conveniently produced, he may accept a copy of it certified in writing to be a correct copy by all the partners (not being minors) personally, or in the case of a dissolved firm, by the persons referred to in sub-clause (*iii*) of clause (*e*) of sub-section (*1*).

Explanation.—In the case of any partner who is absent from India or is a lunatic or an idiot, the declaration referred to in sub-clause (*iii*) of clause (*e*) of sub-section (*1*) or in sub-section (*iii*) of this clause may be verified, and the copy of the instrument required to be furnished under the proviso to sub-clause (*iii*) of clause (*e*) of sub-section (*1*) or under the proviso to sub-clause (*iii*) of this clause certified, by any person duly authorised by such partner, or, as the case may be, by a person entitled under law to represent such partner.

(*3*) (*a*) Where the Income-tax Officer is satisfied that the conditions specified in the foregoing provisions of this section are fulfilled in the case of a firm in relation to an assessment year, he shall assess such firm as a recognised firm for that assessment year:

Provided that where, in respect of any assessment year, there is, on the part of the firm, any such failure as is mentioned in section 144, the Income-tax Officer may assess the firm as an unrecognised firm for that assessment year, after giving the firm a reasonable opportunity of being heard.

(*b*) Where the Income-tax Officer is not so satisfied, he shall, after giving the firm a reasonable opportunity of being heard, pass an order in writing refusing to treat the firm as a recognised firm for such assessment year and thereupon such firm shall be assessed as an unrecognised firm for that assessment year.

(*4*) In this section—

(*a*) "Register of Firms" means the Register of Firms referred to in section 59 of the Indian Partnership Act, 1932; 9 of 1932.

(*b*) "Registrar" means the Registrar of Firms appointed under section 57 of the Indian Partnership Act, 1932. 9 of 1932.

Withdrawal of recognition.

186B. (*1*) If, where a firm has been assessed as a recognised firm for any assessment year, the Income-tax Officer has, in consequence of information in his possession, reason to believe that any condition or conditions specified in sub-section (*1*) or, as the case may be, sub-section (*2*) of section 186A, have not been fulfilled in relation to the firm in respect of that assessment year, he may, after giving the firm a reasonable opportunity of being heard and with the previous ap-

writing withdrawing the recognition of the firm for that assessment year:

Provided that no such order shall be made after the expiry of eight years from the end of such assessment year.

(2) If, where a firm has been assessed as a recognised firm for an assessment year, there is, on the part of the firm, in the course of any proceedings for re-assessment under section 147, any such failure in respect of the assessment year as is mentioned in section 144, the Income-tax Officer may, by an order in writing, withdraw the recognition of the firm for that assessment year after giving the firm a reasonable opportunity of being heard.

(3) Where the recognition of a firm is withdrawn for any assessment year, the Income-tax Officer shall amend the assessments of the firm and its partners for that assessment year on the footing that the firm is an unrecognised firm:

Provided that no such amendment shall be made after the expiry of two years from the end of the assessment year in which the order under sub-section (1) or, as the case may be, sub-section (2) is made.

(4) The provisions of section 154, other than sub-section (7) of that section, shall, so far as may be, apply to the amendment of the assessments of the firm and its partners under sub-section (3) of this section.'.

Amendment of section 208.

44. In section 208 of the Income-tax Act, in sub-section (2), for the words "registered firm", in both the places where they occur, the words "registered or recognised firm" shall be substituted with effect from the 1st day of April, 1970.

Amendment of section 209.

45. In section 209 of the Income-tax Act, for clause (*d*) and the *Explanation* at the end, the following clause and *Explanation* shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*d*) in cases where—

(*i*) the total income of the latest previous year [being a year later than the previous year referred to in clause (*a*)] on the basis of which tax has been paid by the assessee under section 140A exceeds the total income referred to in clause (*a*), or

(*ii*) the Income-tax Officer makes an amended order referred to in sub-section (3) of section 210 on the basis of the total income on which tax has been paid by the assessee under section 140A,

the total income referred to in clause (*a*) shall be substituted,—

(1) in a case falling under sub-clause (*i*), by the total income on the basis of which tax has been paid under section 140A, and

(2) in a case falling under sub-clause (*ii*), by the total income on the basis of which the amended order under sub-section (3) of section 210 is made.

Explanation.—If the assessee is a partner of a registered of recognised firm and an assessment of the firm has been completed for a previous year for which the assessee's assessment has been com-

pleted, his share in the income of the firm shall, for the purposes of clause (*a*), be included in his total income on the basis of the said assessment of the firm.".

Amendment of section 210.

46. In section 210 of the Income-tax Act, for sub-section (*3*), the following sub-section shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*3*) If, after the making of an order by the Income-tax Officer under this section and at any time before the date which is fifteen days prior to the date on which the last instalment of advance tax is payable by the assessee under sub-section (*1*) of section 211, tax is paid by the assessee under section 140A or a regular assessment of the assessee (or of the registered or recognised firm of which he is a partner) is made in respect of a previous year later than that referred to in the order of the Income-tax Officer, the Income-tax Officer may make an amended order requiring the assessee to pay in one instalment on the specified date or in equal instalments on the specified dates, if more than one, falling after the date of the amended order, the advance tax computed on the basis of the total income on which tax has been paid under section 140A or in respect of which the regular assessment aforesaid has been made as reduced by the amount, if any, paid in accordance with the original order.".

Amendment of section 215.

47. In section 215 of the Income-tax Act, for sub-section (*2*), the following sub-section shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*2*) Where before the date of completion of a regular assessment, tax is paid by the assessee under section 140A or otherwise,—

(*i*) interest shall be calculated in accordance with the foregoing provision up to the date on which the tax is so paid; and

(*ii*) thereafter, interest shall be calculated at the rate aforesaid on the amount by which the tax as so paid (in so far as it relates to income subject to advance tax) falls short of the assessed tax.".

Amendment of section 221.

48. In section 221 of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted, namely:—

"(*1*) When an assessee is in default or is deemed to be in default in making a payment of tax, he shall, in addition to the amount of the arrears and the amount of interest payable under sub-section (*2*) of section 220, be liable, by way of penalty, to pay such amount as the Income-tax Officer may direct and in the case of a continuing default, such further amount or amounts as the Income-tax Officer may from time to time direct, so, however, that the total amount of penalty does not exceed the amount of tax in arrears:

Provided that before levying any such penalty, the assessee shall be given a reasonable opportunity of being heard:

Provided further that where the Income-tax Officer is satisfied that the default was for good and sufficient reasons, no penalty shall be levied under this section.".

Omission of section 233.

49. Section 233 of the Income-tax Act shall be omitted with effect from the 1st day of April, 1970.

Amendment of section 234.

50. In section 234 of the Income-tax Act,—

(*a*) for the word and figures "section 141", the words, figures and letter "section 141 or section 141A" shall be, and shall be deemed to have been substituted with effect from the 1st day of April, 1968;

(*b*) the words and figures "section 141 or" shall be omitted with effect from the 1st day of April, 1970.

Amendment of section 235.

51. In section 235 of the Income-tax Act,—

(*a*) in sub-clause (*ii*) of clause (b), for the words "twenty-seven and a half per cent.", the words "the amount of income-tax payable by it under this Act" shall be substituted with effect from the 1st day of April, 1970;

(*b*) the following *Explanation* shall be, and shall be deemed always to have been, inserted at the end, namely:—

"*Explanation.*—Where any person other than the shareholder is chargeable to tax under this Act on the dividend referred to in this section, references in this section to the shareholder shall be construed as references to such other person.".

Amendment of section 243.

52. In section 243 of the Income-tax Act, for sub-section (*1*), the following sub-section shall be substituted with effect from the 1st day of April, 1970, namely:—

"(*1*) If the Income-tax Officer does not grant the refund,—

(*a*) in any case where the total income of the assessee does not consist solely of income from interest on securities or dividends, within three months from the end of the month in which the total income is determined under this Act, and

(*b*) in any other case, within three months from the end of the month in which the claim for refund is made under this Chapter,

the Central Government shall pay the assessee simple interest at nine per cent. per annum on the amount directed to be refunded from the date immediately following the expiry of the period of three months aforesaid to the date of the order granting the refund.

Explanation.—If the delay in granting the refund within the period of three months aforesaid is attributable to the assessee, whether wholly or in part, the period of the delay attributable to him shall be excluded from the period for which interest is payable.".

Amendment of section 244.

53. In section 244 of the Income-tax Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words "within a period of six months from the date of such order", the words and figures "within a period of three months from the end of the month in which the order in

appeal is received by the Commissioner, or, as the case may be, the order in any other proceeding referred to in section 240 is passed" shall be substituted with effect from the 1st day of April, 1970;

(*ii*) for the words "the period of six months aforesaid", the words "the period of three months aforesaid" shall be substituted with effect from the 1st day of April, 1970;

(*b*) in sub-section (*2*), for the words and figures "six months from the date of the order referred to in section 241", the words and figures "three months from the end of the month in which the order referred to in section 241 is passed" shall be substituted with effect from the 1st day of April, 1970.

Amendment of section 246.

54. In section 246 of the Income-tax Act,—

(*a*) in clause (c), for the words, brackets and figures "under sub-section (*3*) of section 143", the words, brackets and figures "under sub-section (*1*) or sub-section (*3*) of section 143" shall be substituted with effect from the 1st day of April, 1970;

(*b*) after clause (*k*), the following clauses shall be inserted with effect from the 1st day of April, 1970, namely:—

"(*ka*) an order under the proviso to clause (*a*) of sub-section (*3*) of section 186A assessing a firm as an unrecognised firm or an order under clause (*b*) of the said sub-section (*3*) refusing to treat a firm as a recognised firm;

(*kb*) an order under sub-section (*1*) or sub-section (*2*) of section 186B withdrawing the recognition of a firm;".

Amendment of section 249.

55. In section 249 of the Income-tax Act,—

(*a*) in sub-section (*1*), the following words shall be inserted at the end, namely:—

"and shall be accompanied by a fee of ten rupees";

(*b*) for sub-section (*3*), the following sub-section shall be substituted, namely:—

"(*3*) The Appellate Assistant Commissioner may admit an appeal within thirty days after the expiration of the period specified in sub-section (*2*) if he is satisfied that the appellant had sufficient cause for not presenting it within the said period.".

Amendment of section 253.

56. In section 253 of the Income-tax Act, in sub-section (*6*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 255.

57. In section 255 of the Income-tax Act, in sub-section (*3*), for the words "twenty-five thousand rupees", the words "fifty thousand rupees" shall be substituted.

Amendment of section 256.

58. In section 256 of the Income-tax Act, in sub-section (*1*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 271.

59. In section 271 of the Income-tax Act,—

(*a*) sub-section (*2*) shall be re-numbered as clause (*a*) of that sub-section and after the said clause (*a*), the following clause shall be inserted, with effect from the 1st day of April, 1970, namely:—

"(*b*) When the person liable to penalty is a recognised firm, or an unrecognised firm assessed as a recognised firm under the provisions of clause (*b*) of section 183A, then, notwithstanding anything contained in the other provisions of this Act, the penalty imposable under sub-section (*1*) shall be the same amount as would be imposable on that firm if that firm were an unrecognised firm.";

(*b*) sub-section (*4*) shall be re-numbered as clause (*a*) of that sub-section and after the said clause (*a*), the following clause shall be inserted with effect from the 1st day of April, 1970, namely:—

"(*b*) If the Income-tax Officer or the Appellate Assistant Commissioner, in the course of any proceedings under this Act, is satisfied that the profits of a recognised firm have been distributed otherwise than in accordance with the shares of the partners as shown in the instrument of partnership under which the firm is constituted during the previous year, and that any partner has thereby returned his income below its real amount, he may direct that such partner shall, in addition to the tax, if any, payable by him, pay, by way of penalty, a sum not exceeding one and a half times the amount of tax which has been avoided or would have been avoided if the income returned by such partner had been accepted as his correct income; and no refund or other adjustment shall be claimable by any other partner by reason of such direction.";

(*c*) in sub-section (*4A*), for the proviso, the following proviso shall be substituted, namely:—

"Provided that—

(*i*) if in a case the minimum penalty imposable under clause (*i*) of sub-section (*1*) for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate of the minimum penalty imposable under the said clause for those years, exceeds a sum of fifty thousand rupees, or

(*ii*) if in a case falling under clause (c) of sub-section (*1*), the amount of income in respect of which penalty is imposable for the relevant assessment year, or, where such disclosure relates to more than one assessment year, the aggregate amount of such income for those years, exceeds a sum of five hundred thousand rupees,

no order reducing or waiving the penalty shall be made by the Commissioner unless the previous approval of the Board has been obtained.".

Amendment of section 274.

60. In section 274 of the Income-tax Act, in sub-section (2), for the words "the minimum penalty imposable exceeds a sum of rupees one thousand", the words and brackets "the amount of income (as determined by the Income-tax Officer on assessment) in respect of which the particulars have been concealed or inaccurate particulars have been furnished exceeds a sum of twenty-five thousand rupees" shall be substituted.

Substitution of new section for section 275.

61. For section 275 of the Income-tax Act, the following section shall be substituted, namely:—

Bar of limitation for imposing penalties.

"275. No order imposing a penalty under this Chapter shall be passed—

(a) in a case where the relevant assessment or other order is the subject-matter of an appeal to the Appellate Assistant Commissioner under section 246 or an appeal to the Appellate Tribunal under sub-section (2) of section 253, after the expiration of a period of—

(i) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or

(ii) six months from the end of the month in which the order of the Appellate Assistant Commissioner or, as the case may be, the Appellate Tribunal is received by the Commissioner;

whichever period expires later;

(b) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed.

Explanation.—In computing the period of limitation for the purpose of this section, the time taken in giving an opportunity to the assessee to be re-heard under the proviso to section 129 and any period during which a proceeding under this Chapter for the levy of penalty is stayed by an order or injunction of any court shall be excluded.".

Amendment of section 276.

62. In section 276 of the Income-tax Act,—

(a) in clause (b), the words, brackets and figures "sub-section (2) of section 139," shall be omitted with effect from the 1st day of April, 1970;

(b) clause (c) shall be omitted with effect from the 1st day of April, 1970.

Insertion of new section 276C.

63. After section 276B of the Income-tax Act, the following section shall be inserted with effect from the 1st day of April, 1970, namely:—

Failure to furnish returns or produce accounts, etc.

"276C. If a person fails without reasonable cause or excuse—

(*a*) to furnish in due time the return of income which he is required to furnish under sub-section (*1*) of section 139 or by notice given under sub-section (2) of section 139 or section 148; or

(*b*) to produce, or cause to be produced, on or before the date specified in any notice under sub-section (*1*) of section 142, such accounts and documents as are referred to in the notice,

he shall be punishable with rigorous imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to ten rupees for every day during which the default continues:

Provided that a person shall not be proceeded against under this section for failure to furnish in due time the return of income under sub-section (*1*) of section 139—

(*i*) for any assessment year commencing prior to the 1st day of April, 1970; or

(*ii*) for any assessment year commencing on or after the 1st day of April, 1970, if the return is furnished by him before the expiry of the assessment year.".

Amendment of section 279.

64. In section 279 of the Income-tax Act, in sub-section (*1*), after the words, figures and letter "or section 276B", the words, figures and letter "for section 276C" shall be inserted with effect from the 1st day of April, 1970.

Amendment of section 280ZA.

65. In section 280Z of the Income-tax Act,—

(*a*) in sub-section (1), for the words "public company", the word "company" shall be substituted;

(b) in sub-section (2), the following proviso shall be added at the end of clause (a), namely:—

"Provided that where the company is entitled to the deduction under section 35E in relation to expenditure on shifting of its undertaking, the amount of the expenditure in respect of which the deduction under that section is allowable shall be excluded from the expenditure referred to in sub-clause (ii);":

(c) in sub-section (3), for the words "public company" and "such company", the words "company" and "the company" shall, respectively, be substituted.

Amendment of section 295.

66. In section 295 of the Income-tax Act, in sub-section (2),—

(*a*) after sub-clause (*ii*) of clause (*b*), the following sub-clause shall be inserted with effect from the 1st day of April, 1970, namely:—

"(*iii*) an individual who is liable to be assessed under the provisions of sub-section (2) of section 64;";

(*b*) after clause (*k*), the following clause shall be inserted, namely:—

"(*kk*) the procedure to be followed in calculating interest payable by assessees or interest payable by Government to assessees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored;".

Amendment of Second Schedule.

67. In the Second Schedule to the Income-tax Act, in rule 60, in clause (*a*) of sub-rule (*1*), for the words "the rate of six per cent. per annum", the words "the rate of nine per cent. per annum" shall be substituted.

Amendment of Fourth Schedule.

68. In the Fourth Schedule to the Income-tax Act,—

(*a*) in Part A, in rule 15, in sub-rule (1), after clause (*b*), the following clause shall be inserted, namely:—

"(*bb*) regulating the investment or deposit of the moneys of a recognised provident fund;";

(*b*) in Part B,—

(*i*) in rule 4, in sub-rule (*1*), for the words "and of the accounts of the fund for the last year for which such accounts have been made up", the following shall be substituted, namely:—

"and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up";

(*ii*) in rule 11, in sub-rule (*1*), after clause (*c*), the following clause shall be inserted, namely:—

"(cc) regulating the investment or deposit of the moneys of an approved superannuation fund;";

(*c*) in Part C,—

(*i*) in rule 4, in sub-rule (*1*), for the words "and of the accounts of the fund for the last three years for which such accounts have been made up", the following shall be substituted, namely:—

"and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up";

(*ii*) after rule 8, the following rule shall be inserted, namely:—

Particulars to be furnished in respect of gratuity funds.

"8A. The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the Income-tax Officer, furnish within such period, not being less than twenty-one days from the date of the notice, as may be specified in the notice, such return, statement, particulars or information, as the Income-tax Officer may require.";

(*iii*) in rule 9, in sub-rule (*1*), after clause (*b*), the following clause shall be inserted, namely:—

"(*bb*) regulating the investment or deposit of the moneys of an approved gratuity fund;".

Insertion of Seventh Schedule.

69. After the Sixth Schedule to the Income-tax Act, the following Schedule shall be inserted with effect from the 1st day of April, 1970, namely:—

"THE SEVENTH SCHEDULE

(*See* section 35F)

PART A.—Minerals

1. Apatite and phosphatic ores.
2. Beryl.
3. Chrome ore.
4. Coal and lignite.
5. Columbite, Samarskite and other minerals of the "rare earths" group.
6. Copper.
7. Gold.
8. Gypsum.
9. Iron ore.
10. Lead.
11. Manganese ore.
12. Molybdenum.
13. Nickel ores.
14. Platinum and other precious metals and their ores.
15. Pitchblende and other uranium ores.
16. Precious stones.
17. Rutile.
18. Silver.
19. Sulphur and its ores.
20. Tin.
21. Tungsten ores.
22. Uraniferous allanite, monazite and other thorium minerals.
23. Uranium bearing tailings left over from ores after extraction of copper and gold, ilmenite and other titanium ores.

24. Vanadium ores.

25. Zinc.

26. Zircon.

PART B.—Groups of Associated Minerals

1. Apatite, Beryl, Cassiterite, Columbite, Emerald, Felspar, Lepidolite, Mica, Pitchblende, Quartz, Samarskite, Scheelite, Topaz, Tantalite, Tourmaline.

2. Iron, Manganese, Titanium, Vanadium and Nickel minerals.

3. Lead, Zinc, Copper, Cadmium, Arsenic, Antimony, Bismuth, Cobalt, Nickel, Molybdenum, and Uranium minerals, and Gold and Silver, Arsinopyrite, Chalcopyrite, Pyrite, Pyphrotite and Pentalandite.

4. Chromium, Osmiridium, Platinum, and Nickel minerals.

5. Kyanite, Sillimanite, Corrundum, Dumortierite and Topaz.

6. Gold, Silver, Tellurium, Selenium and Pyrite.

7. Barytes, Flourite, Chalcocite, Selenium, and minerals of Zinc, Lead and Silver.

8. Tin and Tungsten minerals.

9. Limestone, Dolomite and Magnesite.

10. Ilmenite, Monazite, Zircon, Rutile, Garnet and Sillimanite.

11. Sulphides of copper and iron.

12. Coal, Fireclay and Shale.

13. Magnetite and Apatite.

14. Magnesite and Chromite.

15. Talc (Soapstone and Steatite) and Dolomite.".

CHAPTER III

AMENDMENTS TO THE WEALTH-TAX ACT, 1957

27 of 1957.

70. In section 5 of the Wealth-tax Act, 1957 (hereinafter referred to as the Wealth-tax Act), in sub-section (*1*), after clause (*vi*), the following clause shall be, and shall be deemed to have been, inserted with effect from the 1st day of April, 1965, namely:— Amendment of section 5.

"(*via*) the right of the assessee to receive any annuity payable by the Central Government under the provisions of section 280D of the Income-tax Act;".

71. In section 15B of the Wealth-tax Act, in sub-section (*3*), for the words "so, however, that the amount of penalty does not exceed fifty per cent. of the amount of such tax or part, as the case may be:" the following shall be substituted, namely:— Amendment of section 15B.

"and in the case of a continuing failure, such further amount or amounts as the Wealth-tax Officer may from time to time direct, so, however, that the total amount of penalty does not exceed fifty per cent. of the amount of such tax or part, as the case may be:

72. In section 18 of the Wealth-tax Act,— Amendment of section 18.

(*a*) in sub-section (*2A*), the following proviso shall be inserted at the end, namely:—

"**Provided that if in a case falling under clause (*c*) of sub-section (*1*) the amount in respect of which penalty is imposable**

for the relevant assessment year, or where such disclosure relates to more than one assessment year, such amount for any one of the relevant assessment years, exceeds five hundred thousand rupees, no order reducing or waiving the penalty shall be made by the Commissioner unless the previous approval of the Board has been obtained.";

(*b*) in sub-section (*3*), for the words "the minimum penalty imposable exceeds a sum of rupees one thousand", the following shall be substituted, namely:—

"the amount (as determined by the Wealth-tax Officer on assessment) in respect of which penalty is imposable under clause (*c*) of sub-section (*1*) exceeds a sum of twenty-five thousand rupees";

(c) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) No order imposing a penalty under this section shall be passed—

(*a*) in a case where the assessment to which the proceedings for imposition of penalty relate is the subject matter of an appeal to the Appellate Assistant Commissioner under section 23 or an appeal to the Appellate Tribunal under sub-section (2) of section 24, after the expiration of a period of—

(*i*) two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed, or

(*ii*) six months from the end of the month in which the order of the Appellate Assistant Commissioner or, as the case may be, the Appellate Tribunal is received by the Commissioner,

whichever period expires last;

(*b*) in any other case, after the expiration of two years from the end of the financial year in which the proceedings, in the course of which action for imposition of penalty has been initiated, are completed.

Explanation.—In computing the period of limitation for the purposes of this section, the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 39 and any period during which a proceeding under this section for the levy of penalty is stayed by an order or injunction of any court shall be excluded.".

Amendment of section 23.

73. In section 23 of the Wealth-tax Act,—

(*a*) in sub-section (*1*), the words ", in the prescribed form and verified in the prescribed manner" shall be omitted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Every appeal to the Appellate Assistant Commissioner shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of ten rupees.";

(*c*) in sub-section (*2*), the words ", but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period" shall be omitted;

(*d*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The Appellate Assistant Commissioner may admit an appeal within thirty days after the expiration of the period specified in sub-section (*2*) if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period.".

Amendment of section 24.

74. In section 24 of the Wealth-tax Act, in sub-section (*4*), for the words "a fee of one hundred rupees", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 26.

75. In section 26 of the Wealth-tax Act, in sub-section (*2*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 27.

76. In section 27 of the Wealth-tax Act, in sub-section (*1*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Insertion of new sections 44C and 44D.

77. After section 44B of the Wealth-tax Act, the following sections shall be inserted, namely:—

Rounding off of net wealth.

"44C. The amount of net wealth computed in accordance with the foregoing provisions of this Act shall be rounded off to the nearest multiple of one hundred rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter, if such amount contains a part of one hundred rupees, then, if such part is fifty rupees or more, the amount shall be increased to the next higher amount which is a multiple of one hundred and, if such part is less than fifty rupees, the amount shall be reduced to the next lower amount which is a multiple of one hundred; and the amount so rounded off shall be deemed to be the net wealth of the assessee for the purposes of this Act.

Rounding off of tax, etc.

44D. The amount of wealth-tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee, and if such part is less than fifty paise, it shall be ignored.".

Amendment of section 46.

78. In section 46 of the Wealth-tax Act, in sub-section (*2*), after clause (*d*), the following clause shall be inserted, namely:—

"(*dd*) the procedure to be followed in calculating interest payable by assessees or interest payable by the Government to assessees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored;".

CHAPTER IV

AMENDMENTS TO THE GIFT-TAX ACT, 1958

Amendment of section 22.

79. In section 22 of the Gift-tax Act, 1958 (hereinafter referred to as the Gift-tax Act), 18 of 1958

(*a*) in sub-section (*1*), the words ", in the prescribed form and verified in the prescribed manner" shall be omitted;

(*b*) after sub-section (*1*), the following sub-section shall be inserted, namely:—

"(*1A*) Every appeal to the Appellate Assistant Commissioner shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of ten rupees.";

(*c*) in sub-section (*2*), the words ", but the Appellate Assistant Commissioner may admit an appeal after the expiration of the period aforesaid if he is satisfied that the appellant had sufficient cause for not presenting the appeal within that period" shall be omitted;

(*d*) after sub-section (*2*), the following sub-section shall be inserted, namely:—

"(*2A*) The Appellate Assistant Commissioner may admit an appeal within thirty days after the expiration of the period specified in sub-section (*2*) if he is satisfied that the appellant had sufficient cause for not presenting the appeal within the said period.".

Amendment of section 23.

80. In section 23 of the Gift-tax Act, in sub-section (*4*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 25.

81. In section 25 of the Gift-tax Act, in sub-section (*2*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 26.

82. In section 26 of the Gift-tax Act, in sub-section (*1*), for the words "a fee of rupees one hundred", the words "a fee of two hundred and fifty rupees" shall be substituted.

Insertion of new sections 44A and 44B.

83. After section 44 of the Gift-tax Act, the following sections shall be inserted, namely:—

Rounding off of taxable gifts.

"44A. The amount assessed in accordance with the foregoing provisions of this Act as being the value of all taxable gifts shall be rounded off to the nearest multiple of ten rupees and, for this purpose, any part of a rupee consisting of paise shall be ignored and thereafter, if such amount is not a multiple of ten rupees, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and, if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten; and the amount so rounded off shall be deemed to be the value of all taxable gifts of the assessee for the purposes of this Act.

Rounding off of tax, etc.

44B. The amount of gift-tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act, shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and, if such part is less than fifty paise, it shall be ignored.".

Amendment of section 46.

84. In section 46 of the Gift-tax Act, in sub-section (2), after clause (*e*), the following clause shall be inserted, namely:—

"(*ee*) the procedure to be followed in calculating interest payable by assessees or interest payable by the Government to assessees under any provision of this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees, may be ignored;".

CHAPTER V

AMENDMENTS TO THE COMPANIES (PROFITS) SURTAX ACT, 1964

Amendment of section 11.

7 of 1964.

85. In section 11 of the Companies (Profits) Surtax Act, 1964 [hereinafter referred to as the Companies (Profits) Surtax Act],—

(*a*) in sub-section (*2*), the words "and shall be accompanied by a fee of ten rupees" shall be inserted at the end;

(*b*) in sub-section (*3*), in the proviso, for the words "may admit an appeal", the words "may admit an appeal within thirty days" shall be substituted.

Amendment of section 12.

86. In section 12 of the Companies (Profits) Surtax Act, in sub-section (6), for the words "a fee of one hundred rupees", the words "a fee of two hundred and fifty rupees" shall be substituted.

Amendment of section 14.

87. In section 14 of the Companies (Profits) Surtax Act, for the words and figures "section 154 or section 155", the words and figures "section 154, 155, 250, 254, 260, 262, 263 or 264" shall be substituted.

Amendment of section 25.

88. In section 25 of the Companies (Profits) Surtax Act, in sub-section (2), after clause (*d*), the following clause shall be inserted, namely:—

"(*dd*) the procedure to be followed in calculating interest payable by assessees or interest payable by the Government to assessees under this Act, including the rounding off of the period for which such interest is to be calculated in cases where such period includes a fraction of a month, and specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees, may be ignored;".

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to amend the Income-tax Act, 1961, the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964. These amendments have been formulated after considering, *inter alia*, the recommendations and suggestions for tax reform contained in the Report of the Administrative Reforms Commission on Central Direct Taxes Administration, the reports of the Public Accounts Committee and in Shri S. Bhoothalingam's Final Report on the Rationalisation and Simplification of the Tax Structure.

2. The main objectives of the amendments proposed to be made in the Income-tax Act, 1961, are the rationalisation of certain provisions and the simplification of the procedure for assessments and collection of taxes; providing certain tax concessions and reliefs for promoting the development of the economy and removing unintended hardships; countering avoidance and evasion of tax; bringing about a reduction in the pendency of appeals; and removing certain anomalies and lacunae in some of the provisions of the Act. The amendments to the Wealth-tax Act, 1957, the Gift-tax Act, 1958 and the Companies (Profits) Surtax Act, 1964 primarily relate to procedural matters.

3. The notes on clauses explain the various provisions of the Bill.

NEW DELHI;
The 13th May, 1969.

MORARJI DESAI.

Notes on clauses

Clause 2 seeks to make certain amendments in section 2 of the Income-tax Act, 1961.

Sub-clause (*a*) seeks to make certain amendments, retrospectively from 1-4-1962, to the definition of "agricultural income" contained in clause (1) of section 2 of the Income-tax Act.

Under the amendment in sub-clause (a) (i), any rent or revenue derived from land which is situated in India and used for agricultural purposes will qualify as "agricultural income", without the application of the condition in the existing definition that the land should be either assessed to land revenue in India or be subject to a local rate assessed and collected by officers of the Government as such.

Under the amendment in sub-clause (a) (ii), income attributable to any building situated on or in the immediate vicinity of agricultural land in India, which is owned and occupied by the cultivator of the land or the receiver of rent or revenue from the land, as a dwelling house, store house or other out-building, will be treated as agricultural income subject to the fulfilment of the following alternative conditions, namely:—

(*a*) the land is assessed to land revenue in India or is subject to a local rate assessed and collected by officers of the Government as such, or

(*b*) the land is situated beyond a distance of eight kilometres from the limit of any municipal corporation, municipality, notified area, town area or Cantonment Board.

Sub-clause (*b*) seeks to insert a new clause (37B) in section 2 of the Income-tax Act with effect from 1-4-1970. The new clause (37B) defines the term "recognised firm" to mean a firm which, in relation to the assessment year 1970-71 or any subsequent assessment year, is assessable as a recognised firm under the provisions of the new sub-Chapter BB sought to be inserted in Chapter XVI of the Income-tax Act, under clause 43 of the Bill.

Sub-clause (c) seeks to amend, with effect from 1-4-1970, clause (39) of section 2 which defines the term "registered firm". Under the amendment, it is being provided that a registered firm will mean a firm which in relation to the assessment year 1969-70 or any earlier assessment year, is registered in accordance with the relevant provisions of the Income-tax Act. This amendment is consequential to the introduction of the procedure of recognition of firms with effect from the assessment year 1970-71 (under clause 43 of the Bill) in replacement of the existing procedure of registration of firms.

Sub-clause (*d*) seeks to insert a new clause (47A) in section 2 with effect from 1-4-1970. The new clause (47A) defines the term "unrecognised firm" to mean a firm which in relation to the assessment year 1970-71

or any subsequent year is not a recognised firm. This definition is complementary to the definition of the term "recognised firm" in the new clause (37B) of section 2 as sought to be inserted by sub-clause (b).

Sub-clause (e) seeks to amend clause (48) of section 2, which defines the term "unregistered firm". This amendment is complementary to the amendment [under sub-clause (c)] of the definition of "registered firm" in clause (39) of section 2.

Clause 3 seeks to make certain amendments in section 10 of the Income-tax Act.

Sub-clause (a) seeks to amend, with effect from 1-4-1970, clause (2) of section 10 of the Income-tax Act, relating to the exemption from tax of any sum received by an individual as a member of a Hindu undivided family, out of the income of the family.

The proposed amendment is consequential to the insertion, under clause 14 of the Bill, of a new sub-section (2) in section 64 of the Income-tax Act.

Sub-clause (b) seeks to insert a new clause (4B) in section 10 of the Income-tax Act with effect from 1st April, 1969. The object of the proposed amendment is to secure that where the Central Government or a State Government bears any amount of tax payable under the Income-tax Act by an assessee being an individual of foreign nationality or any non-resident person (not being an individual), such assessee will be exempt from tax on the amount of the tax so borne by the Government.

Sub-clause (c) seeks to substitute the existing clause (5) of section 10 by a new clause, retrospectively, from 1-4-1962. The effect of the proposed substitution is that an Indian national will be exempt from tax also on the value of any travel concession or assistance received by him from his employer or former employer for himself, his wife and children, in connection with his proceeding to his home district in India after retirement or termination of his service.

Sub-clause (d) (*i*) seeks to substitute the existing sub-clause (i) of clause (6) of section 10 by a new sub-clause, retrospectively, from 1-4-1962. The effect of the proposed substitution will be that an individual of foreign nationality will be exempt from tax also on passage moneys or the value of any free or concessional passage received from his employer or former employer for himself, his wife and children, in connection with his proceeding to his home country after retirement from, or termination of, his service in India.

Sub-clause (d) (*ii*) seeks to amend sub-clause (vii) of clause (6) of the said section 10, relating to the exemption from tax of the remuneration of foreign technicians employed in India. The effect of the proposed amendment will be that the tax exemption as specified in the said sub-clause (vii) will be available only in the case of foreign technicians who enter employment in India at any time before the 1st April, 1970. This amendment is being made in view of the new provision under sub-clause (d) (*iii*) in the case of foreign technicians entering employment in India on or after 1-4-1970.

Sub-clause (*d*) (*iii*) seeks to provide a new scheme of tax exemption in new sub-clause (viia) of clause (6) of section 10. Under the new sub-clause (viia), a foreign technician entering employment in India on or after the 1st April, 1970, will be eligible for the following tax concessions:—

(*i*) Where he has specialised knowledge and experience in industrial or business management techniques, he will be wholly exempt from tax on his remuneration up to a maximum of Rs. 4,000 per month, for a period of twelve months from the date of his arrival in India. In addition, if the employer pays to Government the tax on the excess, if any, of the technician's remuneration over Rs. 4,000 per month for the said 12 month period, the amount of the tax so paid will not be charged to tax as a perquisite in the assessment of the technician.

(*ii*) In the case of any other technician, his remuneration for a period of 36 months from the date of his arrival in India, will be exempt from tax, subject to a maximum of Rs. 4,000 per month. In addition, if the employer pays to the Government the tax on the excess, if any, of the technician's remuneration over Rs. 4,000 per month for the said 36 month period, the amount of the tax so paid will not be charged to tax as a perquisite in the assessment of the technician. Further, if such a technician continues in employment in India after the expiry of the said 36 months and the tax on his remuneration is paid to Government by his employer, the amount of the tax so paid for a maximum period of 24 months next following the 36 months aforesaid will not be charged to tax as a perquisite in the assessment of the technician.

The tax exemptions as stated above will be available where the foreign technician is in the employment of the Government, a local authority, any corporation set up under any special law, any scientific research institution or body in India which is approved by the prescribed authority or in any business carried on in India. The availability of the exemption is subject to the conditions that (a) the technician was not resident in India in any of the four financial years immediately preceding the financial year in which he arrives in India, and (b) the contract of his service is approved by the Central Government either before the commencement of his service or within six months of such commencement.

The term "technician" is sought to be defined to mean a person who has specialised knowledge and experience in—

(*i*) constructional or manufacturing operations, mining or the generation or distribution of electricity or any other form of power, or

(*ii*) agriculture, animal husbandry, dairy or poultry farming, deep sea fishing or ship building; or

(*iii*) industrial or business management techniques.

Such person should be employed in India in a capacity in which his specialised knowledge and experience in the spheres stated above are actually utilised.

Sub-clause (*e*) seeks to amend clause (26) of section 10 of the Income-tax Act. The effect of the proposed amendment will be that the exemption from tax of the income accruing or arising to the member of a Scheduled Tribe as defined in clause (25) of Article 366 of the Constitution and residing in a specified area as mentioned in the said clause, will be available also in the case of any member of such Scheduled Tribe who is in the service of Government.

Sub-clause (*f*) seeks to insert a new clause (30) in section 10 of the Income-tax Act, with effect from April 1, 1969. The effect of the proposed amendment will be that, in relation to the assessment year 1969-70 and any subsequent year, the amount of any subsidy received by an assessee engaged in the business of growing and manufacturing tea in India, through or from the Tea Board under any scheme for replantation of tea bushes which may be notified in this behalf by the Central Government in the Official Gazette, will be exempt from income-tax. Under the proviso to the new clause, the aforesaid exemption will be available if the assessee furnishes to the Income-tax Officer with his return for the relevant assessment year (or within the extended time allowed by the Income-tax Officer for this purpose), a certificate from the Tea Board as to the amount of subsidy received by him during the previous year.

Clause 4 seeks to make certain amendments in section 23 of the Income-tax Act, relating to the determination of the annual value of the house property.

Sub-clause (*a*) seeks to amend sub-section (1) of section 23 by way of substituting a new proviso for the existing second proviso to that sub-section. Under the new second proviso, the existing concession in the case of let out residential units constructed after 1st April 1961 (by way of reduction of the annual value of each such residential unit by an amount up to Rs. 600 for a period of three years) is being enlarged in relation to let out residential units constructed after 31st March 1969. In respect of let out residential units constructed after 31st March 1969, the annual value will be reduced, in each case, by an amount up to Rs. 1,200 for the year, for a period of five years from the date of completion of the building.

Sub-clause (*b*) seeks to substitute, with effect from 1st April, 1970, a new sub-section for the existing sub-section (2) of section 23, relating to the computation of the annual value of houses which are occupied by the owner for the purposes of his own residence. Under the new sub-section (2), the existing concession (available for any number of such residential houses) will, in a case where the assessee has more than two such residential houses, be available (for and from the assessment year 1970-71) only in respect of two such residential houses which the assessee, at his option, may specify in this behalf.

Clause 5 seeks to make certain amendments to section 32 of the Income-tax Act.

Sub-clause (*a*) seeks to insert a new sub-section (1A) in section 32. Under new sub-section (1A), where an assessee *bona fide* incurs capital expenditure for the purposes of the business or profession at any time after March 31, 1969 on any structure or work constructed or done by him in or in relation to or by way of renovation or extension of, or improvement to, any building held by him under a lease or other right of occupancy and used for purposes of his business or profession, he will be eligible for the grant of depreciation allowance on such capital expenditure at rates to be specified in the Income-tax Rules. When the structure or work is sold, discarded, demolished or destroyed, or is surrendered as a result of the determination of the lease or other right of occupancy, the assessee will be entitled to a terminal allowance. This allowance will be to the extent of the short-fall of the moneys payable from the written down value.

The terms "moneys payable" and "sold" are being defined in an *Explanation* to the new sub-section (1A).

Sub-clause (*b*) seeks to amend sub-section (*2*) of section 32 of the Income-tax Act, relating to the carry forward of unabsorbed depreciation allowances. These amendments are consequential to the insertion, under sub-clause (a) of the new sub-section (1A) in section 32, and the introduction of the new procedure of recognition of firms under clause 43 of the Bill.

Clause 6 seeks to make certain amendments to section 34 of the Income-tax Act relating to conditions for grant of depreciation allowance and development rebate. The amendments are consequential to the insertion of new sub-section (1A) in section 32 of the Income-tax Act under clause 5 of the Bill.

Clause 7 seeks to amend section 35 of the Income-tax Act relating to deduction in respect of expenditure on scientific research. The amendment is consequential to the insertion of new sub-section (1A) in section 32 of the Income-tax Act under clause 5 of the Bill.

Clause 8 seeks to introduce three new sections 35D, 35E and 35F in the Income-tax Act.

The new section 35D seeks to make provisions, in the case of an Indian company, for the amortisation against its profits of certain preliminary expenses incurred by it at any time after 31st March 1969. The preliminary expenses qualifying for such amortisation will be the following, namely:—

(*a*) Legal charges for drafting the Memorandum and Articles of Association of the company.

(*b*) Expenditure on printing of the Memorandum and Articles of Association.

(c) Fees for registering the company under the Companies Act, 1956.

(*d*) Expenditure incurred for—

(*i*) preparation of a feasibility report,

(*ii*) preparation of a project report,

(*iii*) conducting a market survey or any other survey necessary for the business of the company, and

(*iv*) consultancy fees for engineering services relating to the business of the company.

The expenditure under item (d) will qualify for amortisation only where the payment for it is made to a concern rendering the necessary services in the course of a business or profession carried on by it and which is approved for this purpose by the Central Government.

(*e*) Legal charges incurred in drafting any agreement between the company and any other person for any purpose relating to setting up or conduct of the business of the company.

(*f*) Expenditure incurred in connection with the issue for public subscription of shares in or debentures of the company, namely:—

(*i*) under-writing commission;

(*ii*) brokerage;

(*iii*) charges for drafting, typing or printing and advertisement of the Prospectus.

The Central Board of Direct Taxes is sought to be empowered to notify in the Income-tax Rules any other item of expenditure (which is not allowable under any other provision of the Income-tax Act) for being amortised against the profits of an Indian company under the proposed provision.

The aggregate amount of the expenditure qualifying for amortisation will be limited as follows:

(*i*) Where the expenditure is incurred before the commencement of the business of the company, 2.5 per cent. of the aggregate of its issued share capital, debentures and long-term borrowings as on the last day of the previous year in which the business of the company commences;

(*ii*) Where the expenditure is incurred after the commencement of the business of the company in connection with the extension of its industrial undertaking or the setting up of a new industrial unit, 2·5 per cent. of the additional capital raised by it for this purpose in the form of issued share capital, debentures and long-term borrowings, as on the last day of the previous year in which the extension of the industrial undertaking is completed or the new industrial unit commences production or operation.

The long-term borrowings referred to above mean the moneys borrowed by the company for a term of not less than seven years from Government, Industrial Finance Corporation of India, Industrial Credit and Investment Corporation of India, any other financial institution

notified by the Central Government, any banking institution or any person in a foreign country.

The amortisation will consist in a deduction in the computation of the business profits of the company of an amount equal to one-tenth of the qualifying expenditure for each of the 10 years beginning with the year in which the business of the company commences or, as the case may be, the year in which the extension of the industrial undertaking of the company is completed or its new industrial unit commences production or operation.

It is further proposed to provide that where the undertaking of an Indian company which is eligible for amortisation of its preliminary expenditure as stated above is transferred to another Indian company in a scheme of amalgamation before the expiry of the ten-year period of amortisation, the expenditure remaining unamortised will be allowed to be amortised against the profits of the transferee company over the remaintder of the 10-year period.

Any expenditure which is allowed to be amortised under the proposed new section 35D will not be allowable as a deduction under any other provision of the Income-tax Act.

The proposed new section 35E seeks to make provisions for amortisation against profits, in the case of any assessee, of expenditure incurred by him on the shifting of an industrial undertaking situated in India from its existing location to any other place in India, after the 31st March, 1969. The expenditure qualifying for amortisation will be that which is incurred in shifting the machinery and plant and other effects of the undertaking and transferring its establishment to the new place to which it is shifted. The amortisation will consist in the deduction, in the computation of the business profits of the assessee, of an amount equal to one-tenth of the qualifying expenditure for each of the 10 years beginning from the year in which the shifting is completed.

In order to be eligible for amortisation, the assessee will be required to give prior intimation of the shifting to the Income-tax Officer.

Where the industrial undertaking is sold or otherwise transferred within a period of 4 years next following the year in which the shifting was completed, the expenditure on shifting allowed as a deduction will, subject to certain exceptions, be chargeable to tax as the assessee's income of the year in which the sale or transfer took place. Exceptions to this will be made in a case where the sale or transfer has been made to the Government, a local authority, a statutory corporation or a Government company.

Where the undertaking of the company entitled to amortisation of its expenditure on shifting is transferred to another Indian company in a scheme of amalgamation before the expiry of the 10-year period of amortisation, the expenditure remaining unamortised will be allowed to be amortised against the profits of the transferee company over the remainder of the 10-year period.

The expenditure qualifying for amortisation under the proposed provision will not be allowed as a deduction under any other provision of the Income-tax Act.

The new section 35F seeks to make provisions, in the case of Indian companies engaged in the mining industry other than mineral oil and natural gas, for amortisation against their profits over a ten-year period, of the expenditure incurred by them after 31st March 1969 on the prospecting for or for development of mines or other natural deposits of specified minerals. The specified minerals will be the minerals enumerated in Part A of the new Seventh Schedule to the Income-tax Act (proposed to be inserted under clause 69 of the Bill) as also the groups of associated minerals enumerated in Part B of the said Seventh Schedule. The list of minerals in Parts A and B of the said Schedule are, respectively, the same as contained in the First Schedule to the Mines and Minerals (Regulation and Development) Act, 1957 and in rule 69 of the Mineral Concession Rules, 1960 made under that Act.

The expenditure qualifying for amortisation under the new section 35F will be the expenditure incurred by the Indian company after 31st March, 1969 in prospecting for and development of any mine or other natural deposit of any of the minerals during the five-year period ending with the year in which the commercial production of the mineral for which prospecting was undertaken is established. The expenditure qualifying for amortisation will, however, not include (a) expenditure on acquisition of the site of the source of the mineral or the rights in or over the site; (b) expenditure on acquisition of the deposits of the mineral or any rights in or over the deposit; and (c) expenditure of a capital nature on any building, machinery, plant or furniture for which depreciation is admissible to the company under the provisions of the Income-tax Act. Further, where any part of the prospecting or development expenditure referred to above is met directly or indirectly by any other person or authority or where the company realises any sale, salvage, compensation or insurance moneys in respect of any property or rights brought into existence as a result of the expenditure, the amount of the expenditure so met by any other person or authority and also the sale, salvage, etc., moneys will be deducted in arriving at the amount of expenditure qualifying for amortisation.

The expenditure qualifying for amortisation will be allowed as a deduction in ten equal annual instalments beginning with the year in which the company starts commercial production of the mineral for which prospecting was undertaken by it. However, where profits from such commercial production during any year fall short of the annual instalment of the allowable prospecting and development expenditure, the amount of the short-fall will be carried forward and added on to the annual instalment for the next year and allowed as a deduction to the extent of the profits derived by the company from the commercial production of the mineral in that year, and so on, up to a period of 10 years reckoned from the initial year of commercial production.

Where the undertaking of an Indian company which is eligible for the benefits of the new section 35F is transferred to another Indian company in a scheme of amalgamation within the ten-year period of amortisation as stated above, the transferee company will be entitled to the benefits of amortisation of the expenditure remaining unallowed over the unexpired part of the 10-year period.

Where any deduction is claimed by and allowed to an Indian company under the new section 35F in respect of prospecting and development expenditure for any assessment year, no deduction will be allowed for that expenditure under any other provisions of the Income-tax Act for the same or any other assessment year.

Clause 9 seeks to amend section 38 of the Income-tax Act relating to deduction in respect of buildings, etc. partly used for business. The amendment is consequential to the insertion of new sub-section (1A) in section 32 of the Income-tax Act under clause 5 of the Bill.

Clause 10 seeks to amend section 41 of the Income-tax Act.

Sub-clause (a) seeks to insert a new sub-section (2A) in section 41. The new sub-section (2A) provides that where any structure or work referred to in the new sub-section (1A) [sought to be inserted in section 32 of the Income-tax Act under clause 5 of the Bill] is sold, discarded, demolished or destroyed or is surrendered as a result of the determination of the lease or other right of occupancy in respect of the building referred to in that sub-section, the amount by which the moneys payable exceed the written down value of the structure or the work shall be chargeable to tax as income from the business or profession of the previous year in which the moneys became due. The excess will be so assessable as income even if such moneys became due in a previous year in which the business or profession for the purpose of which the structure or work was constructed or done is no longer in existence. The expressions "moneys payable" and "sold" will, for the purpose of new sub-section (2A) of section 41, have the same meanings as they have for the purpose of the new sub-section (1A) of section 32.

Sub-clause (b) seeks to amend sub-section (5) of section 41. The amendment is consequential to the insertion, under sub-clause (a) of the new sub-section (2A) in section 41.

Clause 11 seeks to amend section 43 of the Income-tax Act which defines certain terms relevant to the computation of profits and gains of business or profession. The amendment is consequential to the insertion of new sub-section (1A) in section 32 of the Income-tax Act under clause 5 of the Bill.

Clause 12 seeks to amend section 55 of the Income-tax Act which defines certain expressions relevant for the purpose of computation of "Capital gains". The amendment is consequential to the insertion of new sub-section (1A) in section 32 of the Income-tax Act under clause 5 of the Bill.

Clause 13 seeks to amend section 57 of the Income-tax Act relating to deductions in computing "Income from other sources". The amendment is consequential to the insertion of new sub-section (1A) in section 32 of the Income-tax Act under clause 5 of the Bill.

Clause 14 seeks to make certain amendments, with effect from 1-4-1970, in section 64 of the Income-tax Act relating to the inclusion, in the total income of an individual, of income arising, directly or indirectly, to the spouse or minor child of the individual, *inter alia,* from assets transferred by the individual to them without adequate consideration. Under the proposed amendment, the existing provision in section 64 of the Income-tax Act is being re-numbered as sub-section (1) and a new sub-section (2) together with an *Explanation* thereto, is being inserted in the said section with effect from 1-4-1970.

The new sub-section (2) relates to a case where an individual converts, at any time after 31-3-1965, his separate property into property belonging to the Hindu undivided family of which he is a member by impressing such property with the character of property belonging to the family or throwing such property into the common stock of the family. In such a case, under the new sub-section (2) the individual will be deemed, notwithstanding anything contained in any other provision of the Income-tax Act or any other law for the time being in force, to have transferred the converted property, *i.e.* the property converted into property belonging to the Hindu undivided family, to the members of the family for being held by them jointly. The income from the converted property, in so far as it is attributable to the interest of the individual in the property of the family, will be deemed to arise to the individual and not to the family. Further, the income from the converted property in so far as it is attributable to the interest of the spouse or any minor son of the individual in the property of the family will be deemed to arise to the spouse or the minor son from assets transferred by the individual, indirectly, to the spouse or the minor son and such income will be includible in the total income of the individual in accordance with the existing provision of section 64 [sought to be re-numbered as sub-section (1) by the proposed amendment]. The same will be the position in regard to the income which may arise to the spouse or the minor son of the individual from the whole or any part of the converted property which may be allotted to them, in the event of a partition in the Hindu undivided family.

For the purposes of new sub-section (2), the term "property" has been defined in the *Explanation* to the new sub-section (2) to include any interest in property, movable or immovable, the proceeds of the sale of the property, and any money or investment which for the time being represents such sale proceeds and also any property converted from one species into another by any method. The "interest of the individual in the property of the family" and the "interest of the spouse or the minor son of the individual in the property of the family" have been defined to mean the proportion in which the individual or, as the case may be, the spouse or the minor son of the individual would be entitled to share the property of the family if there had been a total partition in the family as on the last day of the previous year of the family relevant to the assessment year for which the individual is to be assessed under the new sub-section (2) of section 64.

Where the income referred to above is included in the total income of an individual in accordance with the provisions of new sub-section (2), it will be excluded from the total income of the family, or, as the case may be, of the spouse or the minor son of the individual. The pro-

visions of the new sub-section (2) will be applicable only where the Income-tax Officer is of opinion that this will result in a benefit to the revenue.

The provisions of the new sub-section (2) will be applicable for the purpose of the computation of the total income of an individual, in the circumstances stated above, for the assessment year 1970-71 and subsequent years.

Clause 15 seeks to make certain amendments, with effect from 1-4-1970, to section 67 of the Income-tax Act relating to the computation of the share of a partner in the income of a firm.

Sub-clauses (*a*) and (*b*) seek to amend, respectively, clause (a) of sub-section (1) and sub-section (4) of section 67. The amendments are consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 16 seeks to amend, with effect from 1-4-1970, section 75 of the Income-tax Act and the marginal note to that section. The amendment as consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 17 seeks to substitute section 76 of the Income-tax Act (relating to the tax treatment of losses of unregistered firms assessed as registered firms) by a new section, with effect from 1-4-1970. The substitution is consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 18 seeks to amend section 77 of the Income-tax Act (relating to the tax treatment of losses of unregistered firms or their partners) with effect from 1-4-1970. The amendments are consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 19 seeks to amend with effect from 1-4-1970 sub-section (3) of section 80A of the Income-tax Act relating to deductions to be made under the provisions of Chapter VIA of the said Act in computing the total income.

The amendment is consequential to the proposed insertion of new section 80QQ in Chapter VIA of the Act under clause 24 of the Bill.

Clause 20 seeks to amend, retrospectively from 1-4-1968, the definition of "gross total income" contained in clause (5) of section 80B of the Income-tax Act. The effect of the proposed amendment will be that in the case of an individual, "gross total income" will include also any income arising to the spouse or minor child of the individual in respect of which the individual is chargeable to tax under section 64 of the Income-tax Act.

Clause 21 seeks to amend, with effect from 1-4-1970, sub-section (1) of section 80E of the Income-tax Act, relating to the deduction in the case of partners of registered firms engaged in specified professions, in respect

of payments made by them for securing retirement annuities. The amendment is consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 22 seeks to substitute the proviso to sub-section (4) of section 80G by a new proviso, retrospectively, from 1-4-1968. The new proviso brings out explicitly the intention underlying the existing proviso that where the sums qualifying for the deduction specified in sub-section (1) of section 80G include any donations for the repair or renovation of temples, mosques, gurdwaras, etc. notified by the Government, the monetary limit over donations qualifying for the aforesaid deduction will be raised from the general limit of Rs. 2 lakhs to Rs. 5 lakhs (subject to the alternative percentage limit of ten per cent. of the gross total income of the donor) to cover only the above-mentioned donations to the notified temples, mosques, gurdwaras, etc.

Clause 23 seeks to substitute, retrospectively from 1-4-1968, a new section for the existing section 80K of the Income-tax Act relating to deduction, in the computation of taxable income, of any dividends attributable to the 'tax holiday' profits of the company paying the dividends.

The effect of the proposed amendment will be that where the dividend on the shares in a company owned by a person is chargeable to tax under the Income-tax Act as the income of any other person (*e.g.* under section 64 of the Income-tax Act) such other person will be entitled to the deduction, in the computation of his taxable income, for the dividend attributable to the 'tax holiday' profits of the company paying the dividend.

Clause 24 seeks to insert a new section 80QQ in Chapter VIA of the Income-tax Act with effect from 1-4-1970.

Under the proposed new section 80QQ any person carrying on a business, in India, of the printing and publication of books or publication of books without the activity of printing, will be entitled to a deduction, in the computation of his total income, of an amount equal to 20 per cent. of the profits from such business included in his gross total income. The deduction will be admissible for the assessment years 1970-71, 1971-72, 1972-73, 1973-74 and 1974-75.

For the purposes of the new section 80QQ, "books" will not include newspapers, journals, magazines, diaries, brochures, tracts, pamphlets and other publications of a similar nature by whatever name called.

Clause 25 seeks to substitute, with effect from 1-4-1970, a new section 80U for the existing section 80U of the Income-tax Act relating to the deduction of rupees two thousand available to a resident blind individual in the computation of his total income.

The new section 80U seeks to provide for a deduction of rupees two thousand in the computation of the total income of a resident individual who, as at the end of the relevant previous year, is subject to or suffers from a permanent physical disability (other than blindness) which has the effect of reducing substantially his capacity to engage in a gainful employment or occupation, besides providing for such deduction to a totally blind resident individual as under the existing section 80U. In order

to be eligible for the above-mentioned deduction of rupees two thousand, the assessee will be required to furnish in respect of the first assessment year for which the deduction is claimed, in a case of total blindness, a certificate from a registered oculist, and in a case of permanent physical disability as stated above, a certificate from a registered medical practitioner.

Clause 26 seeks to amend, with effect from 1-4-1970, clause (iii) of section 86 of the Income-tax Act, relating to grant of rebate of tax to a partner of an unregistered firm on his share in the income of the firm. The amendment is consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 27 seeks to amend section 89 of the Income-tax Act relating to grant of tax relief by the Commissioner of Income-tax in cases where salary income or "Interest on securities" is received in arrears, thereby attracting a higher rate of tax than would otherwise have been applicable. By the amendment, the Central Board of Direct Taxes will be empowered to make rules regulating the grant of tax relief under the said section 89 by the Commissioner of Income-tax.

Clause 28 seeks to amend section 112A of the Income-tax Act.

Sub-clause (*a*) seeks to substitute clauses (a) and (b) of section 112A retrospectively from 1st April 1968 by two new clauses. The substitution is intended to bring the relevant provisions in section 112A in line with the scheme of the provisions of sections 80S and 80T of the Income-tax Act (effective from 1st April 1968) under which a non-corporate tax-payer is entitled to the deduction of a specified part of his income by way of compensation for the termination of managing agency etc. and long-term capital gains, respectively, in the computation of his taxable income. Under the new clauses (a) and (b) of section 112A, the tax payable by an individual deriving income by way of interest on National Savings Certificates (First Issue) or the Bank Series of such Ceritficates will be the aggregate of (i) the tax chargeable on his total income exclusive of such interest, and (ii) the tax calculated on such interest at the average rate of tax applicable to his ordinary income, *i.e.*, the total income exclusive of the interest, and also the compensation and long-term capital gains, if any, included therein.

Sub-clause (b) seeks to delete *Explanation* 1 to section 112A with effect from 1st April 1969. This is consequential to the discontinuance, under the Finance Act, 1968, of the separate levy of surcharges at differential rates on 'earned income' and 'unearned income' in the case of non-corporate tax-payers.

Clause 29 seeks to substitute section 119 of the Income-tax Act by a new section with effect from 1st April 1969.

Sub-section (1) of the new section 119 empowers the Board to issue, from time to time, such orders, instructions or directions to other Income-tax authorities as it may deem fit for the proper administration of the Income-tax Act subject to the condition that no such orders, instructions

or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions. It is also provided that all officers and persons employed in the execution of the Income-tax Act shall observe and follow the orders, instructions or directions of the Board as stated above.

Clause (a) of sub-section (2) of the new section 119 empowers the Board, in the interest of proper and efficient management of the work of assessment and collection of revenue, to issue general or special orders, from time to time, in respect of any class of incomes or class of cases setting forth guidelines, principles or procedures to be followed by other Income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties. It is specifically provided that such orders may not be prejudicial to assessees and may be in relaxation of any of the provisions of sections 143 (Procedure of assessment), 144 (Best judgement assessment made *ex parte*), 147 and 148 (Proceedings for assessment or re-assessment of escaped incomes), 154 and 155 (Rectification or amendment of assessments) and 210 (Orders of Income-tax Officer for demanding advance tax), and provisions relating to initiation of penalty proceedings contained in sections 271 and 273 (Penalties for defaults in furnishing return of income, production of accounts etc., concealment of income, and default in payment of advance tax on the tax-payer's own estimate), or otherwise.

Clause (b) of sub-section (2) of the new section 119 empowers the Board to issue general or special orders in relation to any case or class of cases, authorising the Commissioner of Income-tax or the Income-tax Officer to admit an application or claim for any exemption, deduction refund or any other relief under the Income-tax Act after the expiry of the period of limitation for the purpose. Such orders may be issued by the Board with a view to avoiding genuine hardship in any case or class of cases.

Sub-section (3) of the new section 119 which is a reproduction of sub-section (2) of the existing section 119—provides that every Income-tax Officer shall observe and follow the instructions issued to him for his guidance by the Director of Inspection or by the Commissioner of Income-tax or by the Inspecting Assistant Commissioner within whose jurisdiction he is functioning.

Clause 30 seeks to make certain amendments, with effect from 1st April 1970, to section 139 of the Income-tax Act relating to the furnishing of the returns of income.

The proposed amendments under sub-clauses (a), (b), (c), (e) and (f) relate to the provisions for charging interest from assessees for delay in furnishing the return of income. In this matter, sub-clause (f) seeks to substitute a new sub-section (8) for the existing sub-section (8) of section 139, in replacement of the provisions for charging interest for delay in the furnishing of returns now contained in clause (iii) of the proviso to sub-section (1) of that section.

Clause (*a*) of the new sub-section (8) seeks to provide for the charging of simple interest at nine per cent. per annum from assessees who do not furnish any return or furnish their returns after the 30th September of the assessment year, in the generality of cases, and after the 31st December of the relevant assessment year in cases where the previous year of the assessee for his business or profession ends after December 31. Interest for delay in filing the return of income beyond the above-mentioned dates will be chargeable even in cases where the time for furnishing the return has been extended by the Income-tax Officer or where the notice under sub-section (2) of section 139 allows time for furnishing the return beyond the above-mentioned dates. In a case where no return has been furnished, the interest will be reckoned for the period from the 1st October or, as the case may be, the 1st January of the assessment year up to the date of completion of the *ex parte* assesssment under section 144 of the Income-tax Act. In other cases the interest will be reckoned for the period from the 1st October or, as the case may be, 1st January of the relevant assessment year upto the date of the furnishing of the return. The interest will be calculated on the tax payable on the total income as determined on regular assessment, as reduced by the advance tax paid, if any, and any tax deducted at source. In the case of a registered firm or an unregistered firm assessed in the manner of a registered firm under clause (b) of section 183 the tax payable will, for the purpose of this provision be calculated as if the firm were an unregistered firm. Similarly, in the case of a recognised firm (*i.e.*, a firm which has been assessed as a recognised firm under the new section 186A sought to be inserted in the Income-tax Act by clause 43 of the Bill) or an unrecognised firm which has been assessed as if it were a recognised firm under clause (b) of the new section 183A (sought to be inserted in the Income-tax Act by clause 41 of the Bill), the tax payable on the total income will, for the purpose of this provision, be computed as if the firm were an unrecognised firm.

Under clause (a) of the new sub-section (8), the Income-tax Officer will have the power to reduce or waive interest payable by any person for delay in or failure to furnish the return of income, in such cases and under such circumstances as may be prescribed in the Income-tax Rules.

Clause (*b*) of the new sub-section (8) is a reproduction of the existing sub-section (1A) of section 139 with a consequential amendment.

The proposed amendments under sub-clauses (a), (b), (c) and (e) are consequential to the proposed amendment under sub-clause (f) referred to above.

Sub-clause (*d*) seeks to amend sub-section (3) of section 139 of the Income-tax Act relating to the furnishing of returns for claiming the carry forward and set off of losses. By the amendment, it is sought to enable the Income-tax Officer to extend the time for the furnishing of such a return on an application made by the assessee in the prescribed manner.

Clause 31 seeks to substitute section 140A of the Income-tax Act relating to payment of tax on self-assessment, by a new section, with effect from 1-4-1970.

Sub-section (1) of the new section 140A requires the payment of tax on self-assessment within 30 days of the furnishing of the return, in every case, where the tax payable on the basis of the return (*i.e.*, the tax chargeable on the returned income after set off of any tax deducted at source or paid in advance) exceeds Rs. 100.

Sub-section (2) of the new section 140A provides that credit shall be given for the tax paid on self-assessment at the time of completion of the regular assessment of the assessee under section 143 or section 144.

Sub-section (3) of the new section 140A provides for the levy of a penalty in a case of failure to pay the tax on self-assessment in accordance with sub-section (1). Before levying the penalty, the Income-tax Officer is required to give a reasonable opportunity to the assessee of being heard. In a case of continuing failure to pay the tax on self-assessment, such penalty may be levied from time to time. The aggregate amount of the penalty is, however, limited to 50 per cent. of the tax which was due to be paid on self-assessment but has not been paid.

Clause 32 seeks to omit, with effect from 1-4-1970, section 141 of the Income-tax Act, relating to provisional assessment for demanding the tax payable on the basis of the return and the accounts and documents, if any, accompanying it. This is consequential to the provisions in sub-section (1) of the new section 143 of the Income-tax Act as proposed to be substituted for the existing section 143, under clause 34 of the Bill.

Clause 33 seeks to amend with effect from 1-4-1970, section 141A of the Income-tax Act, relating to provisional assessment for grant of refund.

Sub-clause (*a*) seeks to amend sub-section (1) of section 141A. Under the sub-section as sought to be amended, a provisional assessment will be made on the basis of the return and the accounts and documents, if any, accompanying it and also with reference to the record of the past years' assessments in the case of the assessee, after making the adjustments specified in sub-section (2) [as proposed to be substituted by sub-clause (b)] to the income or loss declared in the return.

Sub-clause (*b*) seeks to substitute sub-section (2) of section 141A by a new sub-section.

Under the new sub-section, the Income-tax Officer will be required to make adjustments to the income or the loss declared in the return by way of—

(*i*) rectifying any arithmetical error in the return, accounts and documents;

(*ii*) allowing any deduction, allowance or relief which, on the basis of the information available in the return, accounts and documents, is, *prima facie*, admissible but has not been claimed in the return;

(*iii*) disallowing any deduction, allowance or relief claimed in the return but which, on the basis of the information available in the return, accounts and documents, is, *prima facie*, inadmissible; and

(*iv*) giving effect, on the basis of the regular assessments of the relevant past year or years, to the unabsorbed depreciation (section 32), carried forward losses (sections 72, 73 and 74), unabsorbed development rebate (section 33), unabsorbed development allowance (section 33A), deficiency in 'tax holiday' profits (section 80J), and also the allowances or reductions admissible over a specified period of years in respect of capital expenditure under specific provisions in this behalf under the Income-tax Act. The latter comprise capital expenditure on scientific research incurred prior to 1-4-1967 (section 35); capital expenditure on acquisition of patent rights or copy rights (section 35A); certain preliminary expenses incurred by an Indian company after 31-3-1969 (new section 35D proposed to be inserted under clause 3 of the Bill), expenditure on shifting of industrial undertaking after 31-3-1969 (new section 35E proposed to be inserted under clause 8 of the Bill); and capital expenditure on family planning incurred by an Indian company (section 36).

Sub-clause (c) seeks to amend sub-section (3) of section 141A by way of specifying that the procedure laid down in that sub-section for the provisional assessment of a firm as an unregistered firm or a registered firm will apply only in relation to assessments for 1969-70 and earlier assessment years.

Sub-clause (*d*) seeks to insert a new sub-section (3A) in section 141A. The new sub-section provides, in substance, that for the assessment year 1970-71 or any subsequent year a firm may be assessed provisionally as an unrecognised firm but that where the firm has fulfilled the conditions for recognition specified in the new section 186A (sought to be inserted under clause 43 of the Bill), it will be assessed as a recognised firm.

The above amendments in sub-clauses (c) and (d) are consequential to the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 34 seeks to substitute section 143 of the Income-tax Act by a new section with effect from April 1, 1970.

Under sub-section (1) of section 143 as proposed to be substituted, in a case where a return of income has been received under section 139, the Income-tax Officer may, without requiring the presence of the assessee or the production by him of any evidence in support of the return, assess the total income or loss of the assessee on the basis of the return and the accounts and documents, if any, accompanying it and also with reference to the record of the past years' assessments in the case, after making specified adjustments to the income or loss declared in the return, and determine the tax payable by the assessee or refundable to him on the basis of such assessment. The specified adjustments to the income or loss declared in the return are the following, namely:—

(*i*) notification of arithmetical errors in the return, accounts and documents;

(*ii*) allowance of any deduction, allowance or relief which, on the basis of the information available in the return, accounts any

documents, is, *prima facie*, admissible, but has not been claimed in the return;

(*iii*) disallowance of any deduction, allowance or relief claimed in the return but which, on the basis of the information available in the return, accounts and documents, is *prima facie*, inadmissible; and

(*iv*) giving effect, on the basis of the regular assessments of the relevant past year or years, to the unabsorbed depreciation (section 32), carried forward losses (sections 72, 73 and 74), unabsorbed development rebate (section 33), unabsorbed development allowance (section 33A), deficiency in 'tax holiday' profits (section 80J), and also the allowances or deductions admissible over a specified period of years in respect of capital expenditure under specific provisions in this behalf in the Income-tax Act. The latter comprise capital expenditure on scientific research incurred prior to 1-4-1967 (section 35); capital expenditure on acquisition of patent rights or copy rights (section 35A); certain preliminary expenses incurred by an Indian company after 31-3-1969 (new section 35D proposed to be inserted under clause 8 of the Bill); expenditure on shifting of industrial undertaking after 31-3-1969 (new section 35E proposed to be inserted under clause 8 of the Bill); and capital expenditure on family planning incurred by an Indian company (section 36).

Under sub-sections (2) and (3) of section 143 as proposed to be substituted, in cases where a return has been received under section 139, and whether or not an assessment has been made under sub-section (1) as stated earlier, the regular assessment may be made in accordance with the existing procedure of requiring the presence of the assessee, where necessary, production of accounts and other relevant evidence in support of the return, and after enquiry and consideration of the evidence. Where an assessment on the basis of the return, etc., has been made under sub-section (1) of section 143, the assessment under sub-section (3) will be made by the Income-tax Officer only if after examining the accounts and considering the evidence he is of opinion that the assessment made under section 143(1) is incorrect, inadequate or incomplete in any material respect. An assessment made under section 143(1) will be deemed to be incorrect, inadequate or incomplete in a material respect only in the following situations, namely:—

(*i*) The amount of total income or loss determined in that assessment is greater or smaller than the amount of total income or loss determinable on a proper computation under the law.

(*ii*) The amount of tax payable by the assessee or refundable to him as determined in the assessment under sub-section (1) of section 143 is greater or smaller than the amount of the tax payable or the refund due, if any, on a proper computation under the law.

(*iii*) The amount of any depreciation allowance, development rebate or any other relevant allowance or deduction determined in the assessment under sub-section (1) is greater or smaller than the amount of the depreciation allowance, development rebate or, as the case may be, other allowance or deduction properly allowable.

(*iv*) The 'status' of the assessee as taken in the assessment under section 143(1) is not the correct status. 'Status' means the classification of the assessee as individual, Hindu undivided family and so on, and, where the assessee is a firm, its classification as a registered firm or unregistered firm or, as the case may be, a recognised firm or an unrecognised firm under the revised procedure relating to recognition of firms proposed in the amendment under clause 43 of the Bill.

Clause 35 seeks to make certain amendments, with effect from 1-4-1970, in section 153 of the Income-tax Act relating to time limits for completion of assessments and re-assessments.

Sub-clause (*a*) seeks to insert a new sub-section (2A) in section 153. The new sub-section (2A) seeks to provide that in relation to the assessment year 1970-71 and any subsequent year, the fresh assessment to be made under section 146 (*i.e.*, where an *ex parte* assessment has been cancelled by an Income-tax Officer on an application by the assessee) or in pursuance of an order setting aside the assessment passed by the Appellate Assistant Commissioner under section 250 or the Appellate Tribunal under section 254 or the Commissioner in exercise of his revisionary powers under section 263 or 264 may be completed at any time before the expiry of two years from the end of the financial year in which the order under section 146 was made by the Income-tax Officer or the order of the Appellate Assistant Commissioner or Appellate Tribunal was received by the Commissioner, or, as the case may be, the order in revision was passed by the Commissioner. Such fresh assessment may be completed within the time aforesaid even if the time limits specified in sub-section (1) or sub-section (2) of section 153 for the completion of assessments or re-assessments have expired. Under the existing provisions of sub-section (3) of section 153 such fresh assessments are not subject to any time limit and may be completed at any time.

Sub-clause (*b*) seeks to amend sub-section (3) of section 153. The amendment is consequential to the insertion of new sub-section (2A) in section 153 in sub-clause (a).

Clause 36 seeks to amend, with effect from 1-4-1970, sub-section (7) of section 154 of the Income-tax Act relating to amendment of orders.

This amendment is consequential to the provisions in sub-sections (3) and (4) of the new section 186B sought to be inserted in the Income-tax Act by clause 43 of the Bill with effect from 1-4-1970.

Clause 37 seeks to amend, with effect from 1-4-1970, section 158 of the Income-tax Act relating to intimation to a firm of the particulars of its assessment.

The amendment, in substance, consists in the insertion of a new provision corresponding to the existing provision in section 158, providing for the intimation to a recognised firm or to an unrecognised firm which is assessed in the manner of a recognised firm under clause (b) of the new section 183A (sought to be inserted in the Income-tax Act by clause 41 of the Bill), the amount of its total income assessed and the apportionment thereof amongst its partners.

Clause 38 seeks to amend, with effect from 1-4-1970, section 182 of the Income-tax Act relating to assessment of registered firms.

By this amendment it is sought to be provided that the provisions of section 182 shall not apply in respect of the assessment for the assessment year 1970-71 or any subsequent assessment year. This is consequential to the introduction of the new procedure of recognition of firms for and from the assessment year 1970-71, under clause 43 of the Bill in replacement of the existing procedure of registration of firms.

Clause 39 seeks to insert, with effect from 1-4-1970, a new section 182A relating to the assessment of recognised firms. The provisions of the new section 182A are, in substance, identical to the provisions of the existing section 182 of the Income-tax Act relating to the assessment of registered firms. The insertion of the new section 182A is consequential to the introduction of the new procedure of recognition of firms under clause 43 of the Bill for and from the assessment year 1970-71.

Clause 40 seeks to amend, with effect from 1-4-1970, section 183 of the Income-tax Act relating to assessment of unregistered firms. Under the amendment, the operation of section 183 is restricted to assessments for the assessment year 1969-70 and earlier assessment years. This amendment is consequential to the introduction of the new procedure for recognition of firms under clause 43 of the Bill for and from the assessment year 1970-71.

Clause 41 seeks to insert, with effect from 1-4-1970, a new section 183A in chapter XVI-A of the Income-tax Act.

The new section 183A provides for the assessment of unrecognised firms in relation to the assessment year 1970-71 and subsequent years. Under the new section, an unrecognised firm can be assessed to tax directly on its total income, as is done under the existing law in the case of unregistered firms. Alternatively, it will be open to the Income-tax Officer to assess the unrecognised firm in the manner of a recognised firm if he finds this course to be advantageous to Revenue. Where this procedure is adopted, the unrecognised firm will be liable to tax on its total income in the manner of a recognised firm and its partners will be chargeable to tax on their respective shares in the income of the firm on the footing that they were partners in a recognised firm. The insertion of the new section is consequential to the introduction of the new procedure of recognition of firms under clause 43 of the Bill for and from the assessment year 1970-71.

Clause 42 seeks to amend, with effect from 1-4-1970, section 184 of the Income-tax Act relating to application for registration of a firm.

The proposed amendment consists in providing that the provisions of sections 184, 185 and 186 will not be applicable for and from the assessment year 1970-71. This is consequential to the introduction of the new procedure of recognition of firms under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 43 seeks to insert two new sections, 186A and 186B, in a new sub-Chapter BB of Chapter XVI of the Income-tax Act with effect from 1-4-1970.

The new sections 186A and 186B seek to lay down the procedure for recognition of firms, and withdrawal of recognition, for the purpose of income-tax assessments, with effect from the assessment year 1970-71, in replacement of the existing procedure for registration of firms. Under the new provisions, the tax treatment of a recognised firm and its partners will be the same as of a registered firm and its partners under the existing law. Similarly, the tax treatment of an unrecognised firm (*i.e.* a firm which is not a recognised firm under the new procedure) and of its partners will be the same as the tax treatment of an unregistered firm and its partners under the existing law.

The new section 186A seeks to lay down the conditions which have to be fulfilled by a firm in order that it may be treated as a recognised firm and to make provisions regarding ancillary matters.

Sub-section (1) of the new section 186A provides that a firm shall be a recognised firm in relation to the assessment year 1970-71 and any subsequent year if the following conditions are fulfilled:—

(*a*) The partnership as it existed during the previous year is evidenced by an instrument specifying the respective shares of the partners therein.

(*b*) The instrument is registered with the Registrar of Firms under the Indian Partnership Act, 1932 within a specified period, except where the firm is carrying on its business or profession in an area to which that Act does not apply (*i.e.*, Jammu & Kashmir) or in an area or areas which have been specifically excluded from the operation of Chapter VII of that Act by virtue of a notification issued by the State Government under section 56 of the said Act. The specified period is ordinarily six months from the date of commencement of the business or profession of the firm but for the purpose of recognition, time for registration with the Registrar of Firms has been provided in all cases upto 31st March 1970 where the period of six months expires before that date. Delays due to good and sufficient reasons in effecting such registration may be condoned by the Income-tax Officer with the previous approval of the Commissioner of Income-tax in cases where the registration is effected before the due date or the extended date for furnishing the return of income for the assessment year for which the firm seeks to be assessed as a recognised firm.

(*c*) None of the partners of the firm has, at any time during the previous year, any right, title or interest in the share, in the income or property of the firm, as such, of any other partner of the firm. This condition will, however, not apply as between partners of a firm related to one another as husband and wife or parent and child where the child is a minor.

(*d*) The profit or the loss of the firm of the previous year is credited to or divided amongst the partners in accordance with their respective shares as specified in the instrument of partnership.

(*e*) The firm furnishes along with its return of income for the first assessment year for which it seeks to be assessed as a recog-

nised firm, or within any extended time which may be allowed by the Income-tax Officer,—

(*i*) the original instrument of partnership (or a certified copy thereof if the original is not available for good and sufficient reasons) together with a copy thereof;

(*ii*) an extract of the entry relating to registration of the firm by the Registrar of Firms duly certified by the Registrar (except where the firm is not in a position to get itself registered because of non-operation of the relevant provisions of the Indian Partnership Act in the area in which the firm carries on its business or profession);

(*iii*) a declaration in the form as may be prescribed in the Income-tax Rules, signed and verified by all the partners (other than minors)

Sub-section (2) lays down corresponding conditions and obligations for recognition of firms where there has been a change in the constitution of the firm or in the shares *inter se* of its partners during any previous year relevant to the assessment year 1970-71 or any subsequent year.

Sub-section (3) provides that where the conditions set forth in sub-sections (1) and (2) of the new section 186A have been fulfilled in the case of a firm in relation to an assessment year, the firm will be assessed for that year as a recognised firm. However, where the firm's assessment for an assessment year is made *ex parte* under section 144 of the Income-tax Act (by reason of its failure to furnish its return of income or to produce the books of account and documents called for by notice), the firm is liable to be assessed as an unrecognised firm. The Income-tax Officer is required to provide a reasonable opportunity to the firm for being heard before making an order assessing the firm as an unrecognised firm.

Where the Income-tax Officer is not satisfied that the conditions specified in sub-section (1) or sub-section (2) of the new section 186A have been fulfilled in the case of a firm in relation to an assessment year, he is required to pass an order in writing refusing to treat the firm as a recognised firm for that assessment year. Before doing so, the Income-tax Officer is required to give the firm a reasonble opportunity of being heard.

Sub-section (4) defines the terms "Register of Firms" and "Registrar". These terms have the same meanings as under the Indian Partnership Act, 1932.

The new section 186B seeks to make a provision relating to the withdrawal of recognition of a firm.

Under the provisions of the new section, the recognition of a firm for an assessment year can be withdrawn by the Income-tax Officer if, in consequence of information in his possession, he has reason to believe that any of the conditions for recognition as specified in the new section 186A has not been fulfilled in relation to that assessment year. Before withdrawing recognition, the Income-tax Officer is required to give the

firm a reasonable opportunity of being heard. The order withdrawing the recognition can be passed by the Income-tax Officer only with the prior approval of the Inspecting Assistant Commissioner. Such an order can be made only within a period of 8 years from the end of the relevant assessment year.

Further, the recognition of a firm for an assessment year can be withdrawn by the Income-tax Officer in the course of re-assessment proceedings for that year under section 147 of the Income-tax Act, if such re-assessment is made *ex parte* under section 144 of the Income-tax Act due to the firm's failure to furnish its return of income or to produce the accounts or documents called for by a notice.

In the event of withdrawal of recognitions of the firm, the Income-tax Officer is required to amend the assessment of the firm and its partners for the relevant assessment year on the footing that the firm is an unrecognised firm. Such amendment can be made within a period of 2 years from the end of the financial year in which the order of withdrawal of recognition is passed.

For the purpose of amending the assessments of the firm and its partners as stated above, the procedure laid down in section 154 of the Income-tax Act, other than sub-section (7) of that section (relating to the time limit for amendment of orders under section 154) will be applicable.

Clause 44 seeks to amend, with effect from 1st April, 1970, section 208 of the Income-tax Act relating to condition of liability to pay advance tax.

The amendment is consequential to the introduction of the new procedure of recognition of firms under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 45 seeks to make certain amendments, with effect from 1-4-1970, to section 209 of the Income-tax Act relating to the mode of computation of advance tax.

These amendments are consequential to the proposed omission, under clause 32 of the Bill, of section 141 of the Income-tax Act (relating to provisional assessment for demanding tax on the basis of the return) and the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 46 seeks to substitute, with effect from 1-4-1970, a new sub-section (3) for the existing sub-section (3) of section 210, relating to the making of an order by the Income-tax Officer for demanding advance tax.

The substitution is consequential to the proposed omission, under clause 32 of the Bill, of section 141 and the introduction of the new procedure for recognition of firms, under clause 43 of the Bill, for and from the assessment year 1970-71.

Clause 47 seeks to substitute, with effect from 1-4-1970, a new sub-section (2) for the existing sub-section (2) of section 215 of the Income-tax

Act, relating to the charging of interest from assessees for short payments of advance tax on their own estimate.

The substitution is consequential to the proposed omission, under clause 32 of the Bill, of section 141 of the Income-tax Act relating to provisional assessment for demanding tax on the basis of the return.

Clause 48 seeks to substitute sub-section (*1*) of section 221 of the Income-tax Act by a new sub-section. Sub-section (1), as sought to be substituted, brings it out specifically that penalty in cases of default in payment of tax is leviable by the Income-tax Officer and also provides that such penalty will not be levied where the Income-tax Officer is satisfied that the default was for good and sufficient reasons.

Clause 49 seeks to omit section 233 of the Income-tax Act (relating to recovery of tax payable under provisional assessment made under section 141 of that Act) with effect from the 1st April, 1970. This is consequential to the proposed omission with effect from 1-4-1970, under clause 32 of the Bill, of section 141 of the Income-tax Act relating to provisional assessment for demanding tax on the basis of the return and accounts and documents accompanying it. However, by virtue of section 6 of the General Clauses Act, 1897, the provisions of section 233 of the Income-tax Act will continue to be operative for the purpose of recovery of tax demanded on provisional assessments made up to 31-3-1970, under section 141 of the Income-tax Act.

Clause 50 seeks to amend section 234 of the Income-tax Act.

Sub-clause (*a*) seeks to provide that in making a provisional assessment under section 141A of the Income-tax Act (provisional assessment on the basis of the return and the accounts and documents accompaying it for the purpose of grant of refund of tax to the assessee) credit will be given for the tax deducted at source and the advance tax paid in respect of the income which is the subject matter of the provisional assessment. This amendment is being made retrospectively from 1-4-1968 in as much as section 141A was inserted in the Income-tax Act from that date.

Sub-clause (*b*) seeks to omit references to section 141 from section 234 with effect from 1-4-1970. This omission is consequential to the proposed omission of section 141 of the Income-tax Act under clause 32 of the Bill.

Clause 51 seeks to amend section 235 the Income-tax Act, relating to the grant of tax relief in respect of dividends attributable to the agricultural income of the paying company on which such company has paid agricultural income-tax to a State Government.

Sub-clause (*a*) seeks to amend clause (*ii*) of clause (*b*) of section 235 with effect from 1-4-1970. The effect of the amendment will be that where the dividend referred to in section 235 is received by a company, the tax relief will be limited to the amount of the income-tax payable by it on the relevant amount of the dividend (*i.e.*, the portion of the dividend which is attributable to the agricultural income of the paying company), instead of to 27·5 per cent of the relevant amount of the dividend under the existing provision. This change is consequential to the provision in section 80M

of the Income-tax Act (effective from 1-4-1968) under which any company receiving dividends from a domestic company is entitled to the deduction of a specified percentage of the dividend in the computation of its total income.

Sub-clause (*b*) seeks to insert an *Explanation* at the end of section 235 retrospectively with effect from 1-4-1962. The effect of the provision in the *Explanation* will be that where the dividend referred to in section 235 is chargeable to tax as the income of any person other than the shareholder [*e.g.*, where an individual is chargeable to tax under section 64 (iii) of the Income-tax Act on the dividend in respect of shares standing registered in the name of his spouse] the tax relief specified in section 235 will be available to such other person.

Clause 52 seeks to substitute, with effect from 1-4-1970, a new sub-section for the existing sub-section (1) of section 243 of the Income-tax Act relating to payment of interest by the Central Government on delayed refunds.

The effect of the proposed amendments will be that in a case where the total income of the assessee consists only of interest on securities or dividends or both, interest will be payable by the Central Government for any delay in the grant of refund, beyond the period of three months from the end of the month in which the claim for refund is made, as against six months from the date of the claim under the existing law. In all other cases of delay in the grant of refund, interest will be payable by the Central Government for the period of delay beyond three months from the end of the month in which the total income is determined as against three months from the date of the assessment order under the existing law.

In computing the period for which interest is payable by the Central Government on account of delay in grant of refunds, the period for which the delay is attributable to the assessee will be excluded as under the existing law.

Clause 53 seeks to make certain amendments, with effect from 1-4-1970, in section 244 of the Income-tax Act relating to the payment of interest by the Central Government on delay in grant of refund arising as a result of an order in appeal or other proceeding under the Income-tax Act.

Under the provisions as sought to be amended, interest will be payable by the Central Government to assessees for the period of delay in the grant of refund in such cases beyond three months from the end of the month in which the appellate order is received by the Commissioner of Income-tax or, as the case may be, the order in revision or other proceedings giving rise to the refund is passed. Under the present law, such interest is payable only for delay in grant of refund for the period beyond six months from the date of the relevant order.

Similarly, in a case where the refund due to the assessee is withheld under section 241 of the Income-tax Act (because of the order giving rise to the refund being the subject matter of an appeal or other proceeding), the Central Government will, under the proposed amendment, be liable to pay interest for the delay in granting the refund beyond the period of three months from the end of the month in which the order giving rise to the refund was passed. Under the present law, such interest is payable

only for the period of delay in granting the refund beyond six months from the date of the order giving rise to refund.

Clause 54 seeks to amend section 246 of the Income-tax Act with effect from April 1, 1970.

Sub-clause (*a*) seeks to amend clause (c) of section 246. The effect of the amendment will be that an assessment on the basis of the return made by the assessee and the accounts and documents, if any, accompanying it, under sub-section (1) of section 143 (as sought to be substituted under clause 34 of the Bill) will be appealable to the Appellate Assistant Commissioner.

Sub-clause (*b*) seeks to insert two new clauses (*ka*) and (*kb*), in section 246.

The new clause (ka) seeks to provide a right of appeal to a firm against an order by the Income-tax Officer under the proviso to clause (a) of sub-section (3) of the new section 186A (proposed to be inserted in the Income-tax Act under clause 43 of the Bill with effect from 1-4-1970 assessing the firm as an unrecognised firm in cases where the assessment has been made under section 144 by reason of the firm's failure to furnish its return of income or produce its books of account or documents called for by notice, and also against an order of the Income-tax Officer under clause (b) of the said sub-section (3) refusing to treat the firm as a recognised firm.

The new clause (kb) seeks to provide a right of appeal to a firm against an order of the Income-tax Officer under sub-section (1) or sub-section (2) of the new section 186B (sought to be inserted in the Income-tax Act with effect from 1-4-1970 under clause 43 of the Bill) withdrawing the recognition of a firm.

Clause 55 seeks to make certain amendments in section 249 of the Income-tax Act relating to the procedure and time limit for filing of appeals before the Appellate Assistant Commissioner.

Under one of the proposed amendments, assessees preferring appeals before the Appellate Assistant Commissioner will be required to pay a fee of rupees ten with the appeal petition. Under the present law, no fee is required to be paid for preferring appeals before the Appellate Assistant Commissioner.

Under another amendment, it is proposed to limit to thirty days the period for which the Appellate Assistant Commissioner can condone the delay on the part of the appellant in preferring an appeal before him. At present, the Appellate Assistant Commissioner's power to condone delays on the part of appellants in preferring appeals before him is not subject to any time limit.

Clause 56 seeks to amend sub-section (6) of section 253 of the Income-tax Act. By the proposed amendment, the fees payable by a taxpayer for filing of an appeal before the Income-tax Appellate Tribunal is sought to be raised from the existing figure of Rs. 100, to Rs. 250.

Clause 57 seeks to amend sub-section (*3*) of section 255 of the Income-tax Act. The effect of the proposed amendment will be that a Bench of the Income-tax Appellate Tribunal consisting of a single member will be competent to dispose of an appeal in the case of an assessee whose total income as computed by the Income-tax Officer does not exceed Rs. 50,000, as against Rs. 25,000 at present.

Clause 58 seeks to amend sub-section (*1*) of section 256 of the Income-tax Act relating to the statement of the case to High Court by the Income-tax Appellate Tribunal.

By the proposed amendment, it is sought to increase, from Rs 100 to Rs. 250, the amount of the fee payable by an assessee along with his application to the Income-tax Appellate Tribunal for referring to the High Court any question of law arising out of the Tribunal's order.

Clause 59 seeks to make certain amendments in section 271 of the Income-tax Act relating to penalties imposable for failure to furnish the return, comply with notices, concealment of income, etc.

Sub-clause (*a*) seeks to re-number the existing provision in sub-section (2) of section 271 as clause (a) of that sub-section and to insert a new clause (b) in that sub-section. The provisions of the new clause (b) correspond to the existing provisions of sub-section (2) of section 271, except that the new sub-clause (b) refers to recognised firm and unrecognised firm, respectively, in place of registered firm and unregistered firm. This amendment is consequential to the changes proposed to be made with effect from 1-4-1970 in the procedure of assessment of firms under clauses 41 and 43 of the Bill.

The amendment in sub-clause (b) seeks to re-number the existing provision in sub-section (4) of section 271 as clause (a) of that sub-section and insert a new clause (b) in that sub-section. The provisions of the new clause (b) correspond to the provisions of the existing sub-section (4) of section 271, except that the new clause (b) refers to recognised firm in place of registered firm. This amendment is consequential to the changes proposed with effect from 1-4-1970 in the procedure of assessment of firms under clauses 41 and 43 of the Bill.

Sub-clause (c) seeks to substitute the existing proviso to sub-section (4A) of section 271 of the Income-tax Act by a new proviso. Under the proviso as sought to be substituted, in cases of voluntary disclosure of income, the Commissioner of Income-tax will be required to obtain the previous approval of the Board to the waiver or reduction of the minimum statutory penalty imposable for concealment of income only where the income in respect of which penalty is leviable exceeds Rs. 5 lakhs in the aggregate for all the years covered by the disclosure. In regard to the waivier or reduction, in cases of voluntary disclosures, of the minimum statutory penalty leviable for default in funishing the return of income, the Board's approval will be required only where the amount of such penalty exceeds in the aggregate a sum of Rs. 50,000 as under the existing law.

Clause 60 seeks to amend sub-section (2) of section 274 of the Income-tax Act. Under sub-section (2), as sought to be amended, the Income-tax Officer will be required to refer to the Inspecting Assistant Commissioner for imposition of penalty for concealment of income only those cases in which the concealed income, as determined by the Income-tax Officer on assessment, exceeds Rs. 25,000. Under the existing provisions of sub-section (2), such reference to the Inspecting Assistant Commissioner is required to be made in cases where the minimum statutory penalty imposable for concealment of income exceeds Rs. 1,000.

Clause 61 seeks to substitute section 275 of the Income-tax Act by a new section. Under section 275, as proposed to be substituted, the time limit for making an order imposing a penalty under the provisions of Chapter XXI of the Income-tax Act will be ordinarily two years from the end of the financial year in which the proceedings in the course of which action for imposition of penalty has been initiated are completed. However, where the relevant assessment or other order is the subject matter of an appeal to the Appellate Assistant Commissioner or an appeal by the Income-tax Officer to the Appellate Tribunal, the time limit for completing the penalty proceedings will be either the two-year period as stated above or six months from the end of the month in which the order of the Appellate Assistant Commissioner or, as the case may be, the Appellate Tribunal is received by the Commissioner of Income-tax, whichever is later. There will be no change in the existing provision in the *Explanation* to section 275 of the Income-tax Act under which the time taken in re-hearing the assesee (due to change of the Income-tax Officer or the Appellate Assistant Commissioner having jurisdiction) and any period during which the penalty proceedings have been stayed by an order of a court is to be excluded in computing the period of limitation.

Clause 62 seeks to make certain amendments with effect from 1-4-1970 in section 276 of the Income-tax Act, relating to punishment for failure to make payments or deliver returns or statements or allow inspection. The proposed amendments are consequential to the insertion, under clause 63 of the Bill, of a new section 276C in the Income-tax Act with effect from 1-4-1970.

Clause 63 seeks to insert a new section 276C in the Income-tax Act with effect from 1-4-1970.

The new section 276C seeks to make provisions for the punishment, on conviction before a court, of persons who, without reasonable cause or excuse, default in furnishing the return of income under sub-section (1) or sub-section (2) of section 139 or section 148, or who default in producing or causing to be produced the books of account and documents specifically called for by a notice under sub-section (1) of section 142 of the Income-tax Act. The punishment for such defaults will be rigorous imprisonment up to six months together with a fine up to Rs. 10 for every day during which the default continues.

In respect of defaults in furnishing the return under sub-section (1) of section 139, the provision in the new section 276C will operate only where the default pertains to the return to be furnished for the assessment year 1970-71 or any subsequent year. However, if the return of

income for any such assessment year is furnished before the expiry of that assessment year, no prosecution will lie.

In regard to the defaults in furnishing the return called for under sub-section (2) of section 139 or section 148 or a default in producing or causing to be produced the books of account and documents specifically called for by a notice under sub-section (1) of section 142 of the Income-tax Act, the new section 276C will apply where the default occurs on or after 1-4-1970, or, having occurred earlier, continues on or after that date.

Clause 64 seeks to make an amendment with effect from 1-4-1970 in sub-section (1) of section 279 of the Income-tax Act, relating to the requirement that prosecution for an offence under Chapter XXII of the Income-tax Act shall be launched only at the instance of the Commissioner of Income-tax. The proposed amendment is consequential to the insertion, under clause 63 of the Bill, of the new section 276C in the Income-tax Act with effect from 1-4-1970.

Clause 65 seeks to make certain amendments in sub-sections (1), (2) and (3) of section 280ZA of the Income-tax Act.

The effect of the amendments in sub-clauses (a) and (c) will be that companies other than public companies shifting their industrial undertakings from an "urban area" to any other area will also become entitled to the benefit of tax credit certificates under section 280ZA in the same manner as public companies are entitled at present.

Sub-clause (b) seeks to amend sub-section (2) of section 280ZA in consequence of the proposed insertion of new section 35E in the Income-tax Act under clause 8 of the Bill. The effect of the proposed amendment will be that in the case of a company which is entitled under the proposed new section 35E to amortisation of the expenditure incurred by it on shifting its industrial undertaking, the expenditure eligible for amortisation under that section will be excluded from the expenditure on shifting with reference to which the company is entitled to the grant of tax credit certificate under section 280ZA.

Clause 66 seeks to make certain amendments in sub-section (2) of section 295 of the Income-tax Act, relating to the power of the Central Board of Direct Taxes for making rules under the Income-tax Act.

Sub-clause (a) seeks to insert a new sub-clause (iii) in clause (b) of sub-section (2) of section 295. The new sub-clause (iii) seeks to empower the Board to make rules to provide for the manner in which and the procedure by which the income shall be arrived at in the case of an individual who is liable to be assessed under the provisions of new sub-section (2) sought to be inserted in section 64 of the Income-tax Act under clause 14 of the Bill.

Sub-clause (b) seeks to insert a new clause (kk) in sub-section (2) of section 295. The new clause (kk) seeks to empower the Central Board of Direct Taxes to make rules in the Income-tax Rules laying down the procedure to be followed in calculating the interest chargeable from and payable to the assessees under the Income-tax Act. Such rules may in-

clude provisions for the rounding off to whole months the period for which the interest is to be calculated and also specifying the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored.

Clause 67 seeks to amend clause (a) of sub-rule (1) of rule 60 of the Second Schedule to the Income-tax Act. By the amendment it is sought to increase from 6 per cent. per annum to 9 per cent. per annum the interest payable under the said rule by a tax defaulter whose immovable property has been sold in execution of a certificate or any other person whose interests are affected by the sale when the defaulter or such other person seeks to have the sale set aside on depositing the amount of the tax due from the defaulter. The interest will be calculated from the date of proclamation of the sale to the date when the deposit is made, as under the existing provision.

Clause 68 seeks to make certain amendments to Parts A, B and C of the Fourth Schedule to the Income-tax Act.

Sub-clause (*a*) seeks to insert a new clause (bb) in rule 15 (*1*) of Part A of the said Fourth Schedule. The new clause (bb) seeks to empower the Central Board of Direct Taxes to regulate by rules (in the Income-tax Rules), the investment or the deposit of the moneys of a recognised provident fund. Compliance with the rules which may be made by the Board in this behalf will be one of the conditions for recognition or continuance of recognition of the provident fund for purposes of the Income-tax Act.

Sub-clause (*b*) seeks to amend certain provisions in Part B of the said Fourth Schedule, relating to approved superannuation funds. By one of these amendments, the trustees of a superannuation fund will be required to furnish, along with their application to the Income-tax Officer for approval of the fund, two copies of the accounts of the fund for each one of the three years prior to the financial year in which such application is made, during which the fund was in existence and for which its accounts had been made up. This is in replacement of the existing provision under which the accounts of the superannuation fund for one year have to be furnished along with the application for approval of the fund.

The other amendment seeks to insert a new clause (cc) in rule 11 (*1*) of Part B of the said Fourth Schedule. Under the new clause (cc), the Board is sought to be authorised to regulate, by rules (in the Income-tax Rules), the investment or deposit of the moneys of an approved superannuation fund. Compliance with the rules which may be made by the Board in this behalf will be one of the conditions for approval or continuance of approval of the superannuation fund.

Sub-clause (c) seeks to make certain amendments in Part C of the said Fourth Schedule, relating to approval of gratuity funds. Under one of these amendments, the trustees of a gratuity fund will be required to furnish, along with their application to the Income-tax Officer for approval of the fund, two copies of the accounts of the fund for each one of the three years prior to the financial year in which such application is made,

during which the fund was in existence and for which its accounts have been made up. This is in replacement of the existing provision under which the accounts of the fund for three years have to be invariably furnished along with the application for approval of the fund.

Under another amendment, it is sought to insert a new rule 8A in Part C of the said Fourth Schedule. The new rule 8A—which corresponds to rule 10 of Part B of the Fourth Schedule to the Income-tax Act, relating to approved superannuation funds—the Income-tax Officer will be authorised to call for relevant returns, statements, particulars and other information from the trustees of an approved gratuity fund and from any employer who contributes to such fund. Such returns, statements, particulars, etc. can be called for by a notice allowing time of not less than 21 days for compliance.

Under the remaining amendment, it is sought to insert a new clause (bb) in rule 9(*1*) of Part C of the said Fourth Schedule. The new clause (bb) empowers the Central Board of Direct Taxes to regulate, by rules (in the Income-tax Rules) the investment or deposit of moneys of an approved gratuity fund. Compliance with the rules that may be made in this behalf by the Board will be one of the conditions for the approval or continuance of the approval of a gratuity fund.

Clause 69 seeks to insert a new Seventh Schedule to the Income-tax Act with effect from 1-4-1970. Part A and Part B of the new Seventh Schedule contain, respectively, lists of the minerals and groups of associated minerals in respect of which an Indian company will be entitled to amortisation of expenditure on prospecting for or development of mines or other natural deposits of minerals, under the new section 35F sought to be inserted in the Income-tax Act by clause 8 of the Bill. Parts A and B of the said Seventh Schedule correspond, respectively, to the First Schedule to the Mines and Minerals (Regulation and Development) Act, 1957 and the list of associated minerals in rule 69 of the Mineral Concessions Rules, 1960, made under that Act.

Clause 70 seeks to amend section 5 of the Wealth-tax Act, 1957 by way of inserting a new clause (*via*) in sub-section (1) of the said section, retrospectively, from April 1, 1965. The effect of the proposed amendment will be that the value of outstanding annuities receivable by an assessee from the Central Government in respect of annuity deposits made under the provisions in Chapter XXIIA of the Income-tax Act will be exempt from wealth-tax with effect from the assessment year 1965-66.

Clause 71 seeks to amend sub-section (3) of section 15B of the Wealth-tax Act. Under the proposed amendment, it will be open to the Wealth-tax Officer, in a case of continuing default in the payment of tax on self-assessment, to levy penalty from time to time subject to a maximum amount, in the aggregate, of 50 per cent. of the tax in default.

Clause 72 seems to amend section 18 of the Wealth-tax Act.

Sub-clause (*a*) seeks to add a proviso at the end of sub-section (2A) of section 18. Under the proposed proviso, in cases of voluntary disclosure under the Wealth-tax Act, the Commissioner of Wealth-tax will be required to obtain the previous approval of the Board to the waiver or

reduction of penalty imposable for concealment (including under-statement) of wealth where the amount of the wealth in respect of which the penalty is imposable for any one of the assessment years covered by the disclosure exceeds Rs. 5 lakhs.

Sub-clause (b) seeks to amend sub-section (3) of section 18. Under sub-section (3), as proposed to be amended, the Wealth-tax Officer will be required to refer to the Inspecting Assistant Commissioner, for imposition of penalty for concealment, (including under-statement) of wealth, cases where the amount in respect of which such penalty is imposable, as determined by the Wealth-tax Officer on assessment, exceeds Rs. 25,000. Under the existing provision in sub-section (3) of section 18, such reference to the Inspecting Assistant Commissioner is required to be made in cases where the minimum statutory penalty imposable for concealment, (including under-statement) of wealth, exceeds Rs. 1,000.

Sub-clause (c) seeks to substitute sub-section (5) of section 18 by a new sub-section. Under sub-section (5), as proposed to be substituted, the time limit for making an order imposing penalty under section 18 of the Wealth-tax Act will ordinarily be two years from the end of the financial year in which the proceedings in the course of which action for imposition of penalty has been initiated are completed. However, where the relevant assessment is the subject matter of an appeal to the Appellate Assistant Commissioner or an appeal by the Wealth-tax Officer to the Appellate Tribunal, such time limit will be either the period of two years as stated above or six months from the end of the month in which the order of the Appellate Assistant Commissioner or, as the case may be, the Appellate Tribunal is received by the Commissioner of Wealth-tax, whichever is later. There will be no change in the existing provision in the *Explanation* to sub-section (5) under which the time taken in rehearing the assessee (due to change of the Wealth-tax Officer, Appellate Assistant Commissioner, etc. having jurisdiction) and any period during which the penalty proceedings have been stayed by an order or a court is to be excluded in computing the period of time limitation.

Clause 73 seeks to make certain amendments in section 23 of the Wealth-tax Act relating to appeals by wealth-tax assessees before the Appellate Assistant Commissioner.

By one of these amendments, it is sought to provide for the payment of a fee of ten rupees by assessees along with their appeal petitions to the Appellate Assistant Commissioner. The present law does not contain such a requirement.

By another amendment, it is sought to limit to thirty days the period for which the Appellate Assistant Commissioner may condone the delay on the part of an assessee in preferring an appeal before him. Under the existing provisions, there is no time limit in regard to the period of delay in presenting appeals which may be condoned by the Appellate Assistant Commissioner.

Clause 74 seeks to amend sub-section (4) of section 24 of the Wealth-tax Act relating to appeals before the Appellate Tribunal against the orders of the Appellate Assistant Commissioner and the Inspecting Assistant Commissioner.

The proposed amendment seeks to increase from rupees one hundred to rupees two hundred and fifty, the fee payable by an assessee along with his appeal petition to the Appellate Tribunal.

Clause 75 seeks to amend sub-section (2) of section 26 of the Wealth-tax Act relating to appeals before the Appellate Tribunal against the order of revision by the Commissioner of Wealth-tax.

The proposed amendment seeks to increase from rupees one hundred to rupees two hundred and fifty, the fee payable by the assessee along with his appeal petition to the Appellate Tribunal.

Clause 76 seeks to amend sub-section (1) of section 27 of the Wealth tax Act relating to references to High Court by the Appellate Tribunal at the instance of the assessee or the Commissioner of Wealth-tax.

The proposed amendment seeks to increase from rupees one hundred to rupees two hundred and fifty, the fee payable by an assessee along with his application to the Appellate Tribunal on referring to the High Court any question of law arising from an order of the Tribunal.

Clause 77 seeks to insert two new sections 44C and 44D in the Wealth-tax Act.

Under the new section 44C, the net wealth computed under other provisions of the Wealth-tax Act will be rounded off to the nearest multiple of one hundred rupees, by ignoring an amount less than Rs. 50, and increasing amounts ranging Rs. 50 to Rs. 99, to Rs. 100.

Under the new section 44D, the amount of wealth-tax, interest, penalty or any other sum payable, and the amount of refund due, under the provisions of the Wealth-tax Act will be rounded off to the nearest multiple of a rupee.

Clause 78 seeks to insert a new clause (dd) in sub-section (2) of section 46 of the Wealth-tax Act relating to the powers of the Central Board of Direct Taxes to make rules under the said Act.

The new clause (dd) seeks to empower the Board to make provisions in the Wealth-tax Rules relating to the procedure to be followed in calculating the interest chargeable from or payable to assessees under the Wealth-tax Act. Such rules may make provisions for rounding off to whole months the period for which the interest is to be calculated and also specify the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored.

Clause 79 seeks to make certain amendments in section 22 of the Gift-tax Act, 1958, relating to appeals to the Appellate Assistant Commissioner.

By one of these amendments, it is sought to provide for the payment of a fee of ten rupees along with the appeal by an assessee to the Appellate Assistant Commissioner.

By another amendment, it is sought to limit the period of 30 days, the period for which the Appellate Assistant Commissioner may condone the delay on the part of an assessee in preferring an appeal before him.

Clause 80 seeks to amend sub-section (4) of section 23 of the Gift-tax Act relating to appeal to the Appellate Tribunal against the order of the Appellate Assistant Commissioner.

The proposed amendment seeks to increase from rupees one hundred to rupees two hundred and fifty, the fee payable by an assessee along with his appeal petition to the Appellate Tribunal.

Clause 81 seeks to amend sub-section (2) of section 25 of the Gift-tax Act relating to appeal to the Appellate Tribunal by an assessee against the order on revision by the Commissioner of Gift-tax.

The proposed amendment seeks to increase from rupees one hundred to rupees two hundred and fifty, the fee payable by the assessee along with his appeal petition to the Appellate Tribunal.

Clause 82 seeks to amend sub-section (1) of section 26 of the Gift-tax Act relating to reference to the High Court by the Appellate Tribunal at the instance of the assessee or the Commissioner of Gift-tax.

The proposed amendment seeks to increase, from rupees one hundred to rupees two hundred and fifty, the fee payable by the assessee along with his application to the Appellate Tribunal for referring to the High Court any questions of law arising from the Tribunal's order.

Clause 83 seeks to insert two new sections 44A and 44B in the Gift-tax Act.

Under the new section 44A, the amount assessed under the other provisions of the Gift-tax Act as being the value of all taxable gifts will be rounded off to the nearest multiple of ten rupees.

Under the new section 44B, the amount of gift-tax, interest, penalty or any other sum payable and the amount of refund due, under the provisions of the Gift-tax Act will be rounded off to the nearest multiple of a rupee.

Clause 84 seeks to insert a new clause (ee) in sub-section (2) of section 46 of the Gift-tax Act relating to the powers of the Central Board of Direct Taxes for making rules under the said Act.

The new clause (ee) seeks to empower the Board to make provisions in the Gift-tax Rules laying down the procedure to be followed in calculating the interest chargeable from and payable to assessees under the Gift-tax Act. Such rules may make provisions for the rounding off to whole months the period for which interest is to be calculated and also specify the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored.

Clause 85 seeks to make certain amendments in section 11 of the Companies (Profits) Surtax Act, 1964 relating to appeals to the Appellate Assistant Commissioner.

By one of the amendments, it is sought to provide for the payment of a fee of ten rupees by assessees along with every appeal to the Appellate Assistant Commissioner. Under the present law no fee is required to be paid in making an appeal to the Appellate Assistant Commissioner.

By another amendment, it is sought to limit to thirty days the period for which the Appellate Assistant Commissioner may condone the delay on the part of an assessee in presenting an appeal before him.

Clause 86 seeks to amend sub-section (6) of section 12 of the Companies (Profits) Surtax Act, relating to appeals to the Appellate Tribunal.

The proposed amendment seeks to increase, from rupees one hundred to rupees two hundred and fifty, the fee payable by the assessees with their appeal petitions to the Appellate Tribunal.

Clause 87 seeks to amend section 14 of the Companies (Profits) Surtax Act.

The existing provisions in section 14 of the said Act enable the re-computation of the chargeable profits for purposes of surtax as a result of any order of rectification or re-computation under section 154 or section 155 of the Income-tax Act. Under the proposed amendment, the re-computation of chargeable profits for surtax will be permissible even in cases where the corresponding income-tax assessment has been the subject matter of any order in appeal, reference or revision under the Income-tax Act.

Clause 88 seeks to insert a new clause (dd) in sub-section (2) of section 25 of the Companies (Profits) Surtax Act relating to the powers of the Central Board of Direct Taxes for making rules under the said Act.

The new clause (dd) seeks to empower the Board to lay down in the rules the procedure to be followed in calculating the interest chargeable from and payable to assessees under the Companies (Profits) Surtax Act. Such rules may make provisions for the rounding off to whole months the period for which interest is to be calculated and also specify the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored

FINANCIAL MEMORANDUM

Under clause 65 of the Bill, the provisions of section 280ZA of the Income-tax Act, 1961, relating to the grant of tax credit certificates to public companies shifting their industrial undertakings from an urban area to any other area, are sought to be extended to companies other than public companies. The entitlement to the tax credit certificates under that section arises where the assessee company derives capital gains from the sale or transfer of the lands or buildings of its industrial undertaking in the urban area in the course of or in connection with its shifting and incurs expenditure under specified heads within a period of three years from the date of approval by the Central Board of Direct Taxes to the shifting of its industrial undertaking. The specified heads of expenditure include expenditure on acquiring lands or constructing buildings in the area to which the undertaking is shifted and expenditure on shifting the machinery or plant and establishment to that area. Where such expenditure amounts to or exceeds the capital gains referred to above, the tax credit certificate is granted in an amount equal to the tax payable on the capital gains. Where such expenditure is less than the amount of the capital gains, the tax credit certificate is granted for a proportionate amount. The amount of the tax credit certificate is treated as an expenditure out of the Consolidated Fund of India. The proposed extension of the provisions of the aforesaid section 280ZA to companies other than public companies will, therefore, entail some additional expenditure of a recurring nature in the years to come. The amount of such expenditure will depend on the number of companies other than public companies which seek to shift their industrial undertakings from urban areas to other areas and thereby become eligible for the grant of tax credit certificates. It is not therefore, possible to make an estimate of the amount of such expenditure The proposal will not involve any additional expenditure on establishment.

The proposal will not involve any expenditure of a non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

The Bill contains provisions amending the Income-tax Act, under which the Central Government or the Central Board of Direct Taxes are empowered to provide for certain matters of procedure and administrative detail by making rules in that behalf. These provisions are briefly explained below:—

(*i*) Clause 3 seeks to make certain amendments in section 10 of the Act. Under the amendments in sub-clauses (*c*) and (*d*) (*i*), the Central Government is empowered to prescribe by rules the conditions subject to which the exemption from tax under clause (5) and clause (*6*) (*i*) of section 10 of the Act will be available in respect of certain travel concessions or passage moneys. Sub-clause (*d*) (*iii*) of clause 3 seeks to insert a new sub-clause (*viia*) in clause (*6*) of section 10 of the Act for empowering the Board to prescribe by rules the authorities who may approve scientific research institutions or bodies for the purpose of the exemption from tax of the remuneration of a foreign technician employed by such institutions or bodies.

(*ii*) Clause 5 seeks to insert a new sub-section (*1A*) in section 32 of the Act empowering the Board to prescribe by rules the rates of depreciation in respect of any structure or work constructed or done by the assessee in or in relation to a building held by him on lease or other right of occupancy and used for the purposes of his business or profession. Such a power is already vested in the Board in respect of various classes of assets in respect of which depreciation is admissible under the Act.

(*iii*) Clause 8 seeks to introduce a new section 35D, which provides for the amortisation against profits over a 10-year period of certain clauses of expenditure incurred by Indian companies, not at present qualifying for any deduction under the Act. Sub-section (*2*) of new section 35D enumerates the various categories of expenditure which will qualify for the amortisation, but to cover situations which cannot be foreseen easily, empowers the Board to prescribe by rules other items of expenditure with reference to which the amortisation will be available.

(*iv*) Clause 23 seeks to substitute a new section for section 80K of the Act, relating to deduction in respect of dividends attributable to the "tax holiday" profits of a company. New section 80K provides that the deduction under that section shall be allowed subject to any rules that may be made by the Board for this purpose.

(v) Clause 27 seeks to amend section 89 of the Act relating to the grant of tax relief by the Commissioner of Income-tax in cases where salary income or "interest on securities" is received in arrears thereby attracting a higher rate of tax than would otherwise have been applicable. Under the section as sought to be amended, the Board will be empowered to make rules regulating the grant of tax relief under the said section 89 by the Commissioner of Income-tax.

(*vi*) Clause 30 seeks to make certain amendments in section 139 of the Act. The amendments in sub-clauses (*a*), (*c*) and (*d*) empower the Board to prescribe by rules the manner of making an application to the Income-tax Officer for extension of time for furnishing the return of income. Sub-clause (*f*) seeks to substitute a new sub-section for sub-section (*8*) of section 139 which, *inter alia*, empowers the Board to prescribe by rules the cases and circumstances in which interest payable by any person for failure to furnish the return of income in due time may be reduced or waived by the Income-tax Officer.

(*vii*) Clause 43 seeks to insert two new sections 186A and 186B as a new sub-Chapter BB of Chapter XVI of the Act. They seek to lay down the procedure for recognition of firms, and withdrawal of recognition, for the purpose of income-tax assessments with effect from the assessment year 1970-71, in replacement of the existing procedure for registration of firms. New section 186A requires a firm seeking recognition to furnish along with its return of income, for the first assessment year for which it seeks to be assessed as a recognised firm, within the specified time or within such further times as may be allowed by the Income-tax Officer, a declaration in the form to be prescribed by the Board in the Income-tax Rules in respect of such matters as may be specified therein and verified by all the partners in such manner as may be prescribed in those Rules.

(*viii*) Clause 66 seeks to amend section 295(2) of the Act relating to power of the Board to make rules. The amendment in sub-clause (*a*) seeks to empower the Board to make rules to provide for the manner in which and the procedure by which the income shall be arrived at in the case of an individual who is liable to be assessed under the provisions of new sub-section (2) sought to be inserted in section 64 of the Act under clause 14. Such a power already exists in respect of the income of persons not resident in India and income received partly from agriculture and partly from business. The amendment in sub-clause (*b*) seeks to empower the Board to make rules laying down the procedure to be followed in calculating the interest chargeable from or payable to assessees under the Act, including provisions for rounding off to whole months the period for which interest is to be calculated and the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored.

(*ix*) Clause 68 seeks to make certain amendments to Parts A, B and C of the Fourth Schedule to the Act. These amendments, *inter alia*, seek to empower the Board to regulate by rules the investment or deposit of the moneys of a recognised provident fund, an approved superannuation fund or an approved gratuity fund.

It may be mentioned that rules made under the Income-tax Act have to be laid before Parliament under section 295 of that Act.

2. Clause 8 seeks to introduce a new section 35D in the Income-tax Act. Sub-section (*3*) of new section 35D places a limit on the expenditure qualifying for amortisation, at 2½ per cent. of the aggregate of the issued share capital, debentures and long-term borrwings of the company as on the last

day of the previous year in which the business of the company commences. The *Explanation* to that sub-section, which defines the term "long-term borrowings", *inter alia,* authorises the Central Government to notify financial institutions, the borrowings from which will qualify as long-term borrowings for the purposes of the said section.

3. Clause 29 seeks to substitute a new section for section 119 of the Income-tax Act. Clause (*a*) of sub-section (2) of new section 119 empowers the Board, in the interest of proper and efficient management of the work of assessment and collection of revenue, to issue general or special orders, from time to time, in respect of any class of incomes or class of cases setting forth guide lines, principles or procedures to be followed by other Income-tax authorities in the work relating to assessment or collection of revenue or the initiation of proceedings for the imposition of penalties. It is specifically provided that such orders should not be prejudicial to assessees and may be in relaxation of specified provisions of the Income-tax Act, or otherwise. The provisions of the Income-tax Act specified for this purpose are those relating to the procedure for making assessments including reassessments and rectification, proceedings for demanding advance tax and initiation of proceedings for levy of penalties. Clause (*b*) of sub-section (2) of new section 119 empowers the Board to issue general or special orders in relation to any case or class of cases, authorising the Commissioner of Income-tax or the Income-tax Officer to admit an application or claim for any exemption, deduction, refund or any other relief under the Income-tax Act after the expiry of the period of limitation for this purpose. Such order may be issued by the Board with a view to avoiding genuine hardship in any case or class of cases.

4. Clauses 73, 78, 79, 84 and 88 of the Bill seek to make certain amendments in the Wealth-tax Act, the Gift-tax Act and the Companies (Profits) Surtax Act. The amendments in these clauses, *inter alia,* empower the Board in the case of the Wealth-tax and Gift-tax Acts to make rules prescribing the form of appeal to the Appellate Assistant Commissioner against an order of the Wealth-tax Officer or the Gift-tax Officer, and the manner in which such appeal petition shall be verified and in the case of all the three Acts, to make rules regarding the procedure to be followed in calculating the interest chargeable from or payable to assessees, including provisions for rounding off to whole months the period for which interest is to be calculated and the circumstances in which and the extent to which petty amounts of interest payable by assessees may be ignored.

5. The aforesaid matters are all matters of procedure and administrative detail which it is not practicable to provide in the Bill itself. The delegation of legislative powers is thus of a normal character.

LOK SABHA SECRETARIAT

NOTIFICATION

New Delhi, the 20th May, 1969

No. F. 1|6(8)|69|L.—Under Rule 64 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Speaker of Lok Sabha has been pleased to order the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Bill, 1969 in the Gazette of India before the introduction of the Bill in Lok Sabha. The Bill is accordingly published for general information:—

(TO BE INTRODUCED IN LOK SABHA)

Bill No. 46 *of* 1969

A bill to determine the conditions of service of the Comptroller and Auditor-General of India and to prescribe his duties and powers and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

Short title.

1. This Act may be called the Comptroller and Auditor-General's (Duties, Powers and Conditions of Service) Act, 1969.

Definitions.

2. In this Act, unless the context otherwise requires,—

(*a*) "accounts", in relation to commercial undertakings of a Government, includes trading, manufacturing and profit and loss accounts and balance sheets and other subsidiary accounts;

(*b*) "appropriation accounts" means accounts which relate the expenditure brought to account during a financial year, to the several items specified in the law made in accordance with the provisions of the Constitution or of the Government of Union Territories Act.

1963, for the appropriation of moneys out of the Consolidated Fund of India or of a State, or of a Union territory having a Legislative Assembly, as the case may be; 20 of 1963.

(*c*) "Comptroller and Auditor-General" means the Comptroller and Auditor-General of India appointed under article 148 of the Constitution;

(*d*) "State" means a State specified in the First Schedule to the Constitution;

(*e*) "Union" includes, a Union territory, whether having a Legislative Assembly or not.

CHAPTER II

SALARY AND OTHER CONDITIONS OF SERVICE OF THE COMPTROLLER AND AUDITOR-GENERAL

Salary

3. There shall be paid to the Comptroller and Auditor-General a salary at the rate of four thousand rupees per mensem:

Provided that if a person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in receipt of, or, being eligible so to do, had elected to draw, a pension (other than a disability or wound pension) in respect of any previous service under the Government of the Union or any of its predecessor Governments, or under the Government of a State or any of its predecessor Governments, his salary in respect of service as Comptroller and Auditor-General shall be reduced—

(*a*) by the amount of that pension; and

(*b*) if he had, before assuming office, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension; and

(*c*) if he had, before assuming office, received, or become eligible for receiving, a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

Term of office.

4. The Comptroller and Auditor-General shall hold office for a term of six years from the date on which he assumes such office:

Provided that he may, at any time, by writing under his hand addressed to the President, resign his office.

Explanation.—For the purpose of this section, the term of six years in respect of the Comptroller and Auditor-General holding office immediately before the commencement of this Act, shall be computed from the date on which he had assumed office.

Leave.

5. (*1*) A person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in the service of Government may be granted during his tenure of office but not thereafter, leave in accordance with the rules for the time being applicable to the Service to which he belonged before such date and he shall be entitled to carry forward the amount of leave standing at his credit on such date, notwithstanding anything contained in section 6.

(2) Any other person who is appointed as the Comptroller and Auditor-General may be granted leave in accordance with such rules as are for the time being applicable to a member of the Indian Administrative Service.

(3) The power to grant or refuse leave to the Comptroller and Auditor-General and to revoke or curtail leave granted to him, shall vest in the President.

Pension.

6. (1) A person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in the service of Government shall be deemed to have retired from service on the date on which he enters upon office as the Comptroller and Auditor-General and shall, on demitting the said office, be eligible to—

(a) such pension as may be admissible to him in accordance with the rules for the time being applicable to the Service to which he belonged, his service as Comptroller and Auditor-General being reckoned for the purposes of those rules as continuing approved service counting for pension in the Service to which he belonged; and

(b) an additional pension of six hundred rupees per annum in respect of each completed year of service as Comptroller and Auditor-General, such service in respect of the person holding office as the Comptroller and Auditor-General immediately before the commencement of this Act being computed from the date on which he had entered upon office as the Comptroller and Auditor-General:

Provided that the aggregate of all pensions payable to a person who had held office as the Comptroller and Auditor-General, inclusive of the commuted portion, if any, of his pension and the pension equivalent of the retirement gratuity, if any, which may have been admissible to him under the rules for the time being applicable to the Service to which he belonged, shall not exceed thirteen thousand, three hundred and thirty three rupees and thirty three paise per annum.

(2) A person who, immediately before the date of assuming office as the Comptroller and Auditor-General, was in receipt of, or, had become eligible for receiving, a pension in respect of any previous service under Government, shall, on demitting office as the Comptroller and Auditor-General, be eligible to an additional pension of six hundred rupees per annum in respect of each completed year of service as Comptroller and Auditor-General:

Provided that the aggregate of all pensions payable to a person who had held office as the Comptroller and Auditor-General, inclusive of the commuted portion, if any, of his pension and the pension equivalent of the retirement gratuity, if any, received or receivable by him shall not exceed thirteen thousand, three hundred and thirty three rupees and thirty three paise per annum.

(3) Any other person who is appointed as the Comptroller and Auditor-General shall be eligible on his retirement to such pension not exceeding thirteen thousand, three hundred and thirty three rupees and thirty three paise per annum as the President may, by order, determine.

Commutation of pension.

7. The Civil Pensions (Commutation) Rules for the time being in force shall, with such adaptations as may be made therein by the President, apply to a person who had held office as the Comptroller and Auditor-General.

Right to subscribe to General Provident Fund.

8. Every person holding office as the Comptroller and Auditor-General shall be entitled to subscribe to the General Provident Fund (Central Services).

Other conditions of service.

9. Save as otherwise expressly provided in this Act, the other conditions of service of a person holding office as the Comptroller and Auditor-General including his emoluments during any period of duty out of India and his travelling allowance while travelling on duty, shall be determined by the rules for the time being applicable to a member of the Indian Administrative Service holding the rank of Secretary to the Government of India:

Provided that nothing in this section shall have effect so as to give a person, who immediately before the date of assuming office as the Comptroller and Auditor-General, was in the service of Government, less favourable terms in respect of any of the matters aforesaid than those to which he would be entitled as a member of the Service to which he belonged, his service as Comptroller and Auditor-General being treated for the purpose of this proviso as continuing service in the Service to which he belonged.

CHAPTER III

DUTIES AND POWERS OF THE COMPTROLLER AND AUDITOR-GENERAL

Comptroller and Auditor-General to compile accounts of the Union and States.

10. (*1*) The Comptroller and Auditor-General shall be responsible—

(*a*) for compiling the accounts of the Union and of each State from the initial and subsidiary accounts rendered to the audit and accounts offices under his control by treasuries, offices or departments responsible for the keeping of such accounts; and

(*b*) for keeping such accounts in relation to any of the matters specified in clause (*a*) as may be necessary:

Provided that the President as respects the accounts of the Union, and the Governor of a State as respects the accounts of that State, may, after consultation with the Comptroller and Auditor-General, by order, relieve him from the responsibility for compiling the accounts of any particular service or department of the Union or a State, as the case may be:

Provided further that the President may, after consultation with the Comptroller and Auditor-General, by order, relieve him from the responsibility for keeping the accounts of any particular class or character.

(*2*) Where, under any arrangement, a person other than the Comptroller and Auditor-General has before the commencement of this Act, been responsible—

(*i*) for compiling the accounts of any particular service or department of the Union or a State, or

(*ii*) for keeping the accounts of any particular class or character,

such arrangement shall, notwithstanding anything contained in sub-section (*1*), continue to be in force unless, after consultation with the

Comptroller and Auditor-General, it is revoked in the case referred to in clause (*i*), by an order of the President or the Governor of the State, as the case may be, and in the case referred to in clause (*ii*), by an order of the President.

Comptroller and Auditor-General to prepare and submit accounts to the President, Governors of States and Administrators of Union Territories having Legislative Assemblies.

11. The Comptroller and Auditor-General shall, from the accounts compiled by him or by any other person responsible in that behalf, prepare in each year accounts (including, in the case of accounts compiled by him, appropriation accounts) showing under the respective heads the annual receipts and disbursements for the purposes of the Union, of each State and of each Union territory having a Legislative Assembly, and shall submit those accounts to the President or the Governor of a State or Administrator of the Union territory having a Legislative Assembly, as the case may be, on or before such dates as he may, with the concurrence of the Government concerned, determine.

Comptroller and Auditor-General to give information and render assistance to the Union and States.

12. The Comptroller and Auditor-General shall, in so far as the accounts for the compilation or keeping of which he is responsible enable him so to do, give to the Union Government, to the State Governments or to the Governments of Union territories having Legislative Assemblies as the case may be, such information as they may, from time to time, require, and render such assistance in the preparation of their annual financial statements as they may reasonably ask for.

General provisions relating to audit.

13. It shall be the duty of the Comptroller and Auditor-General—

(*a*) to audit all expenditure from the Consolidated Fund of India and of each State and of each Union territory having a Legislative Assembly and to ascertain whether the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged, and whether the expenditure conforms to the authority which governs it;

(*b*) to audit all transactions of the Union and of the States relating to Contingency Funds and Public Accounts;

(*c*) to audit all trading, manufacturing, profit and loss accounts and balance sheets kept in any department of the Union or of a State;

and in each case to report on the expenditure, transactions or accounts so audited by him.

Audit of expenditure of bodies or authorities financed from Union or State revenues.

14. Where any body or authority is entirely financed by grants or loans from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly, the Comptroller and Auditor-General shall, subject to the provisions of any law for the time being in force applicable to the body or authority, as the case may be, audit all expenditure of that body or authority.

Functions of Comptroller and Auditor-General in the case of grants or loans given to other authorities or bodies.

15. (*1*) Where any grant or loan is given for any specific purpose from the Consolidated Fund of India or of any State or of any Union territory having a Legislative Assembly to any authority or body, not being a foreign State or international organisation, the Comptroller and Auditor-General shall scrutinise the procedures by which the sanctioning authority satisfies itself as to the fulfilment of the conditions subject to which such grants or loans were given and shall for this purpose have right of access, after giving reasonable previous notice, to the books and accounts of that authority or body:

Provided that the President, the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, may, where he is of opinion that it is necessary so to do in the public interest, by order, relieve the Comptroller and Auditor-General, after consultation with him, from making any such scrutiny in respect of any body or authority receiving such grant or loan.

(*2*) Except where he is authorised so to do by the President, the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, the Comptroller and Auditor-General shall not have, while exercising the powers conferred on him by sub-section (*1*), right of access to the books and accounts of any corporation to which any such grant or loan as is referred to in sub-section (*1*) is given if the law by or under which such corporation has been established provides for the audit of the accounts of such corporation by an agency other than the Comptroller and Auditor-General:

Provided that no such authorisation shall be made except after consultation with the Comptroller and Auditor-General and except after giving the concerned corporation a reasonable opportunity of making representations with regard to the proposal to give to the Comptroller and Auditor-General right of access to its books and accounts.

Audit of receipts of Union or States.

16. It shall be the duty of the Comptroller and Auditor-General to audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure an effective check on the assessment, collection and proper allocation of revenue and are being duly observed and to make for this purpose such examination of the accounts as he thinks fit and report thereon.

Audit of accounts of stores and stock.

17. The Comptroller and Auditor-General shall have authority to audit and report on the accounts of stores and stock kept in any office or department of the Union or a State.

Powers of Comptroller and Auditor-General in connection with audit of accounts.

18. (*1*) The Comptroller and Auditor-General shall, in connection with the performance of his duties under this Act, have authority—

(*a*) to inspect any office of accounts under the control of the Union or of a State, including treasuries and such offices responsible for the keeping of initial or subsidiary accounts as submit accounts to him;

(*b*) to require that any accounts, books, papers and other documents which deal with or form the basis of or are otherwise relevant to the transactions to which his duties in respect of audit extend, shall be sent to such place as he may appoint for his inspection;

(*c*) to put such questions or make such observations as he may consider necessary, to the person in charge of the office and to call for such information as he may require for the preparation of any account or report which it is his duty to prepare.

(*2*) The person in charge of any office or department, the accounts of which have to be inspected and audited by the Comptroller and Auditor-General, shall afford all facilities for such inspection and comply with requests for information in as complete a form as possible and with all reasonable expedition.

Audit of Government companies and corporations.

19. (*1*) The duties and powers of the Comptroller and Auditor-General in relation to the audit of the accounts of Government companies shall be performed and exercised by him in accordance with the provisions of the Companies Act, 1956. 1 of 1956.

(*2*) The duties and powers of the Comptroller and Auditor-General in relation to the audit of the accounts of corporations (not being companies) established by or under law made by Parliament shall be performed and exercised by him in accordance with the provisions of the respective Acts.

(*3*) The Governor of a State or the Administrator of a Union territory having a Legislative Assembly may, where he is of opinion that it is necessary in the public interest so to do, request the Comptroller and Auditor-General to audit the accounts of a corporation established by law made by the Legislature of the State or of the Union territory, as the case may be, and where such request has been made, the Comptroller and Auditor-General shall audit the accounts of such corporation and shall have, for the purposes of such audit, right of access to the books and accounts of such corporation:

Provided that no such request shall be made except after consultation with the Comptroller and Auditor-General and except after giving a reasonable opportunity to the corporation to make representations with regard to the proposal for such audit.

Audit of accounts of certain authorities or bodies.

20. (*1*) Save as otherwise provided in section 19, where the audit of the accounts of any body or authority has not been entrusted to the Comptroller and Auditor-General by or under any law made by Parliament, he shall, if requested so to do by the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, undertake the audit of the accounts of such body or authority on such terms and conditions as may be agreed upon between him and the concerned Government and shall have, for the purposes of

such audit, right of access to the books and accounts of that body or authority:

Provided that no such request shall be made except after consultation with the Comptroller and Auditor-General.

(2) The Comptroller and Auditor-General may propose to the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, that he may be authorised to undertake the audit of the accounts of any body or authority, the audit of the accounts of which has not been entrusted to him by law, if he is of opinion that such audit is necessary because a substantial amount has been invested in, or advanced to, such body or authority by the Central or State Government or by the Government of a Union territory having a Legislative Assembly, and on such request being made, the President or the Governor or the Administrator as the case may be, may empower the Comptroller and Auditor-General to undertake the audit of the accounts of such body or authority.

(3) The audit referred to in sub-section (1) or sub-section (2) shall not be entrusted to the Comptroller and Auditor-General except where the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be, is satisfied that it is expedient so to do in the public interest and except after giving a reasonable opportunity to the concerned body or authority to make representations with regard to the proposal for such audit.

CHAPTER IV

MISCELLANEOUS

Power of Comptroller and Auditor-General to delegate functions.

21. Any power exercisable by the Comptroller and Auditor-General under the provisions of this Act, or any other Act may be exercised by such officer of his department as may be authorised by him in this behalf by general or special order:

Provided that except during the absence of the Comptroller and Auditor-General on leave or otherwise, no officer shall be authorised to submit on behalf of the Comptroller and Auditor-General any report which the Comptroller and Auditor-General is required by the Constitution or the Government of Union Territories Act, 1963 to submit to the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, as the case may be. 20 of 1963

Power to make rules.

22. (1) The Central Government may, after consultation with the Comptroller and Auditor-General, by notification in the Official Gezette, make rules for carrying out the purposes of this Act in so far as they relate to the maintenance of accounts.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which initial and subsidiary accounts shall be kept by the treasuries, offices and departments rendering accounts to audit and accounts offices;

(*b*) the manner in which the accounts of any particular service or department or of any particular class or character, in respect of which the Comptroller and Auditor-General has been relieved from the responsibility of compiling or keeping the accounts, shall be compiled or kept;

(*c*) the manner in which the accounts of stores and stock shall be kept in any office or department of the Union or a State, as the case may be;

(*d*) any other matter which is required to be, or may be, prescribed by rules.

(*3*) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to make regulations.

23. The Comptroller and Auditor-General is hereby authorised to make regulations for carrying into effect the provisions of this Act in so far as they relate to the scope and extent of audit, including laying down for the guidance of the Government Departments the general principles of Government accounting and the broad principles in regard to audit of receipts and expenditure.

Power to dispense with detailed audit.

24. The Comptroller and Auditor-General is hereby authorised to dispense with, when circumstances so warrant, any part of detailed audit of any accounts or class of transactions and to apply such limited check in relation to such accounts or transactions as he may determine

Repeal

25. The Comptroller and Auditor-General (Conditions of Service) Act, 1953, is hereby repealed. 21 of 1953.

STATEMENT OF OBJECTS AND REASONS

Article 148(3) of the Constitution provides that the salary and other conditions of service of the Comptroller and Auditor-General shall be such as may be determined by law and until so determined, shall be as specified in the Second Schedule to the Constitution. Further, article 149 of the Constitution lays down that the Comptroller and Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States and of any other authority or body as may be prescribed by or under any law made by Parliament and until so prescribed, shall perform such duties and exercise such powers in relation to the accounts of the Union and of the States as were conferred on or exercisable by the Auditor-General of India immediately before the commencement of the Constitution.

The conditions of service of the Comptroller and Auditor-General are at present governed by three separate sets of provisions, namely, paragraph 12 of the Second Schedule to the Constitution which refers to salary and rights in respect of leave of absence and other conditions of service; the Comptroller and Auditor-General (Conditions of Service) Act, 1953 which regulates the term of office of the Comptroller and Auditor-General and his pensionary entitlements; and the Government of India (Audit and Accounts) Order, 1936 made under section 166 of the Government of India Act, 1935, which continues to be in force in so far as the other conditions of service are concerned (mostly leave of absence and travelling allowance).

The duties and powers of the Comptroller and Auditor-General in relation to the accounts of the Union and of the States continue to be governed by the provisions of the Government of India (Audit and Accounts) Order, 1936, which remains in force in view of the provisions of article 149 of the Constitution.

The Bill seeks to provide comprehensively for the conditions of service and duties and powers of the Comptroller and Auditor-General in replacement of the various provisions in this regard as referred to above. While it broadly follows the existing provisions both in respect of conditions of service and duties and powers, it makes certain modifications as indicated below:—

(*a*) *Conditions of service*

(*i*) *Pension.*—The Bill provides that a person who, immediately before assuming office as Comptroller and Auditor-General, was in the service of Government, shall be deemed to have retired from his previous service on the date on which he enters upon office as the Comptroller and Auditor-General, but for purposes of pension, service as Comptroller and Auditor-General will be counted as approved service in the Service to

which he belonged. On demitting office, the Comptroller and Auditor-General will be eligible to pension under the rules of the Service to which he belonged and in addition, to an additional pension of Rs. 600 per annum for each completed year of service as Comptroller and Auditor-General, subject to a maximum of Rs. 13,333.33 (equivalent of £1,000 at the pre-devaluation rate of £1=Rs. 13.33), inclusive of the pension equivalent of death-cum-retirement gratuity. This is a slight modification of the existing provision which did not provide for the pension equivalent of death-cum-retirement gratuity being included in the ceiling. Further the same maximum limit will be applicable in future to all Comptrollers and Auditors-General appointed from any of the established Services irrespective of the Service to which they belonged before their appointment. This will not affect the present incumbent whose existing conditions of service are protected by the provisions of the Constitution.

(*ii*) *Other conditions of service.*—The Bill extends the benefit of the Civil Pensions (Commutation) Rules to the Comptroller and Auditor-General, and also provides that the other conditions of service of the Comptroller and Auditor-General shall be determined by the rules applicable to a member of the Indian Administrative Service holding the rank of a Secretary to the Government of India.

(*b*) *Duties and Powers*

(*i*) The Bill provides for audit by the Comptroller and Auditor-General of all expenditure from the Consolidated Fund of India, of each State and of each Union territory having a Legislative Assembly and also of all transactions relating to the Contingency Funds and Public Accounts.

(*ii*) The Bill provides for audit by the Comptroller and Auditor-General of bodies or authorities financed entirely by grants or loan from the Consolidated Fund of India or of a State or of a Union territory having a Legislative Assembly.

(*iii*) The Bill provides for scrutiny by the Comptroller and Auditor-General of the procedures by which an authority sanctioning a grant or a loan to any body or authority satisfies itself as to the fulfilment of the condition subject to which the grant or loan was given and for this purpose gives him the right of access to the books of the body or authority, with certain exceptions.

(*iv*) The Bill provides for the audit by the Comptroller and Auditor-General of all receipts which are payable into the Consolidated Fund of India or of a State or of a Union territory having a Legislative Assembly and to satisfy himself that the rules and procedures are designed to secure an effective check on assessment, collections etc. and to report thereon.

(*v*) The Bill provides that the Comptroller and Auditor-General shall if so requested by the President or the Governor of a State or the Administrator of a Union territory, as the case may be, undertake the audit of the accounts of any authority or body not otherwise entrusted to him by or under any law made by Parliament. Such request will be

required to be made in public interest and after consultation with the Comptroller and Auditor-General and after giving a reasonable opportunity to the body or authority for making representations with regard to the proposal for audit by the Comptroller and Auditor-General. The Comptroller and Auditor-General may also propose to the President or the Governor of a State or the Administrator of a Union territory having a Legislative Assembly, that he may be authorised to undertake the audit of any body or authority not entrusted to him.

The notes on clauses appended to the Bill explain the other provisions of the Bill.

NEW DELHI; MORARJI DESAI.

The 9th May, 1969.

Notes on clauses

Clause 2.—This clause seeks to insert certain definitions which are largely based on the meanings assigned to them in the Government of India (Audit and Accounts) Order, 1936 which continues to govern the duties and powers of the Comptroller and Auditor-General in terms of article 149 of the Constitution.

Clause 3.—The provision regarding the payment of salary at the rate of four thousand rupees per mensem is the same as paragraph 12(1) in Part E of the Second Schedule to the Constitution. The provision relating to reduction from salary of pension, other than a disability or wound pension, drawn, if any, by the Comptroller and Auditor-General is analogous to paragraph 9 of Part D of the Second Schedule to the Constitution, applicable in the case of Judges of the Supreme Court.

Clause 4.—This clause provides that the Comptroller and Auditor-General shall hold office for a term of six years from the date on which he assumes office and corresponds to section 2 of the Comptroller and Auditor-General (Conditions of Service) Act, 1953 (21 of 1953).

Clause 5.—This Clause will enable a Comptroller and Auditor-General, who was in the service of Government before assumption of office, to take leave in accordance with the rules of the Service to which he belonged except that consequent on clause 6, it provides for the carry forward of the amount of leave at credit immediately before the date of assumption of office when he will be deemed to have retired from his previous service.

Clause 6.—This clause introduces a new provision that a person who, immediately before assuming office as the Comptroller and Auditor-General was in the service of Government, shall be deemed to have retired from his previous service on the date on which he enters upon office as the Comptroller and Auditor-General but for purposes of pension, service as Comptroller and Auditor-General will be counted as approved service in the Service to which he belonged. On demitting office the Comptroller and Auditor-General will be entitled to pension under the rules applicable to the Service to which he belonged and in addition an additional pension of Rs. 600 per annum for each completed year of service as Comptroller and Auditor-General subject to a maximum in the aggregate of Rs. 13,333.33 (equivalent of £1,000 at the predevaluation rate of £1=Rs. 13.33), inclusive of the pension equivalent of death-*cum*-retirement gratuity. This is a slight modification of the existing provision which did not provide for the pension equivalent of death-*cum*-retirement gratuity being included in the ceiling. Further the same maximum limit will be applicable in future to all Auditors-General appointed from any of the established services irrespective of the Service to which they belonged before their appointment.

Clause 7.—This clause seeks to extend the benefit of the Civil Pensions (Commutation) Rules to the Comptroller and Auditor-General.

Clause 8.—According to this clause, the Comptroller and Auditor-General will be entitled to subscribe to the General Provident Fund (Central Services).

Clause 9.—This clause provides that the other conditions of service of the Comptroller and Auditor-General i.e., those not specifically provided for in the Bill, shall be determined by the rules for the time being applicable to a member of the Indian Administrative Service holding the rank of Secretary to the Government of India and follows the existing provision.

Clause 10.—The existing Order provides that the Comptroller and Auditor-General shall be responsible for keeping the accounts of the Union and of each State—except the accounts relating to Defence and Railways. The President or the Governor, as the case may be, has, however, the authority to relieve the Comptroller and Auditor-General, after consultation with him, from the responsibility for keeping the accounts of any particular service or department. The President may also relieve the Comptroller and Auditor-General from the responsibility for keeping the accounts of any particular class or character. In exercise of these powers the Comptroller and Auditor-General has been relieved of the responsibility for the maintenance of accounts of certain selected Departments (*e.g.* Food Deptt., Rehabilitation Deptt., Supply Deptt., Lok Sabha, Rajya Sabha, etc.). The ARC after considering the pros and cons of the scheme has recommended that as a general policy the responsibility for maintaining the accounts should continue to vest in the Comptroller and Auditor-General except where separate accounts offices have already been set up for the purpose. Clause 10 provides for the maintenance of the *status quo* with this difference that the responsibility vested in the Comptroller and Auditor-General will be in respect of compiling accounts and keeping them where necessary. This clause also gives the President or the Governor, as the case may be, the power to revoke any existing arrangement after consultation with the Comptroller and Auditor-General.

Clause 11.—This clause requires as at present the Comptroller and Auditor-General to prepare the annual accounts separately for the Union and each of the States and Union territories having Legislative Assemblies showing the receipts and disbursements and to submit them to the President, the Governor or the Administrator, as the case may be. In addition, where the accounts are compiled by him he has also to prepare an Appropriation Account showing the expenditure brought to account against the moneys authorised under the Appropriation Act and submit the same to the President, the Governor or the Administrator, as the case may be.

Clause 12.—This clause casts a duty on the Comptroller and Auditor-General to furnish such information to the Union Government or the State Governments or Governments of Union territories having Legislative Assemblies as required and as could be gathered from the accounts for the compilation or keeping of which he is responsible, and is based on the existing arrangement.

Clause 13.—This clause provides that the Comptroller and Auditor-General will audit all expenditure from the Consolidated Fund of India and of each State and of each Union territory having a Legislative

Assembly, all transactions relating to the Contingency Funds and Public Accounts and all trading, manufacturing and profit and loss accounts and follows the existing provisions.

Clause 14.—This is a new provision which provides for audit by the Comptroller and Auditor-General of expenditure of bodies or authorities financed entirely by grants or loans out of the Consolidated Fund of India or of a State or of a Union territory having a Legislative Assembly.

Clause 15.—This clause requires the Comptroller and Auditor-General to scrutinise the procedures by which any authority sanctioning a grant or a loan from the Consolidated Fund of India or of any State or of a Union territory having a Legislative Assembly to any author ty or body other than a foreign State or International Organisation satisfies itself as to the fulfilment of the conditions subject to which the grant or loan was given. For this purpose the Comptroller and Auditor-General will have right of access after giving reasonable previous notice, to the books and accounts of the authority or body but in so far as a Corporation established by Law is concerned, if the Law establishing the Corporation provides for the audit of its accounts by an agency other than the Comptroller and Auditor-General, he will not have right of access to its books and accounts unless he is so authorised by the President, the Governor of a State or the Administrator of a Union territory, after consultation with the Comptroller and Auditor-General and after giving an opportunity to the concerned Corporation to make any representation with regard to such authorisation. Provision has also been made to empower the President, the Governor or the Administrator as the case may be, to relieve the Comptroller and Auditor-General from the responsibility of the scrutiny provided for in this clause in public interest and after consultation with the Comptroller and Auditor-General.

Clause 16.—Under the existing arrangements, audit of receipts can be taken up by the Comptroller and Auditor-General with the approval of. or if required by the President or Governor. This clause empowers the Comptroller and Auditor-General to audit all receipts which are payable into the respective Consolidated Funds and to satisfy himself that the rules and procedures are designed to secure an effective check on assessment, collections, etc., and to report thereon as recommended by the Administrative Reforms Commission and as envisaged in article 151 of the Constitution.

Clause 17.—This clause vests the Comptroller and Auditor-General with authority to audit the accounts of stores and stocks and to report thereon. Under the existing arrangements he can do so with the approval of or if so required by the President or the Governor as the case may be.

Clause 18(1) (*a*) (*b*) & (*c*).—These sub-clauses give to the Comptroller and Auditor-General the authority which he even now has in respect of inspection of any office of accounts and production of documents for his inspection and also to put questions and make observations which he may consider necessary and to call for such information as he may require for the preparation of his reports.

Clause 18(2).—This is a new provision which requires the accounts offices inspected or audited by the Comptroller and Auditor-General to afford all facilities for such inspection or audit and to comply with requests for information.

Clause 19.—This clause provides for the conduct of audit by the Comptroller and Auditor-General of Government companies in accordance with the provisions of the Companies Act, 1956 and of corporations established by law in accordance with the provisions of the respective statutes establishing the Corporation. Where, however, a Corporation has been established by law made by a State or a Union territory Legislature the Comptroller and Auditor-General will audit the accounts of the Corporation, if so requested by the Governor of the State or the Administrator of the Union territory as the case may be, in public interest and after consultation with the Comptroller and Auditor-General and after giving a reasonable opportunity to the corporation to make representations with regard to the proposal for such audit. State or Union territory laws cannot provide for such audit as the Comptroller and Auditor-General's duties and powers are required to be regulated by an Act of Parliament under article 149 of the Constitution and hence this provision.

Clause 20.—This is an enabling provision. Under this clause the Comptroller and Auditor-General will at the request of the President or the Governor of a State or the Administrator of a Union territory, as the case may be, undertake the audit of the accounts of any authority or body not otherwise entrusted to him by or under any law made by Parliament. Such audit will be entrusted to the Comptroller and Auditor-General only in public interest and after giving a reasonable opportunity to the concerned body or authority to make representations with regard to the proposal for such audit. This is a new provision which gives statutory recognition to what is known commonly as 'consent' audit. This clause also provides that the Comptroller and Auditor-General may propose to the President, the Governor of a State or the Administrator of a Union territory that he may be authorised to undertake audit of any body or authority not entrusted to him.

Clause 21.—This clause provides for the delegation by the Comptroller and Auditor-General to any officer of his department of the powers exercisable by him except in the matter of submission of Audit Report and follows the existing arrangement.

Clause 22.—This clause provides the usual authority to the Central Government after consultation with the Comptroller and Auditor-General for framing rules in the matter of maintenance of Government accounts. The rules will be laid before both Houses of Parliament.

Clause 23.—This is a new provision enabling the Comptroller and Auditor-General to make regulations in regard to the extent and scope of audit.

Clause 24.—This clause gives statutory authority to the Comptroller and Auditor-General to dispense with the detailed audit of any accounts or class of transactions.

FINANCIAL MEMORANDUM

Under clause 3 of the Bill, the Comptroller and Auditor-General shall be paid salary at the rate of Rs. 4,000 per month subject to appropriate reduction in the case of persons in receipt of pension separately. The expenditure (charged) on this account would be Rs. 48,000 per annum.

Sub-clause (1) of clause 6 of the Bill provides that a person who, immediately before the date of assuming office as Comptroller and Auditor-General, was in the service of Government shall be eligible to such pension as may be admissible to him under the rules for the time being applicable to the Service to which he belonged, his service as Comptroller and Auditor-General being reckoned for purposes of those rules as continuing approved service counting for pension in the Service to which he belonged and in addition, to a pension of Rs. 600 per annum in respect of each completed year of service as Comptroller and Auditor-General.

Under sub-clause (2) of clause 6 of the Bill a person who immediately before the date of assuming office as Comptroller and Auditor-General was in receipt of, or was eligible for, pension in respect of any previous service under Government, shall, on demitting office as Comptroller and Auditor-General be eligible to an additional pension of Rs. 600 per annum in respect of each completed year of service as Comptroller and Auditor-General.

Any other person who is appointed as Comptroller and Auditor-General will, under the provisions of sub-clause (3) of clause 6 of the Bill, be eligible on retirement to such pension, as the President may by order determine.

In all the three cases mentioned above, the aggregate amount of pension inclusive of the additional pension, commuted portion, if any, of pension and pension equivalent of retirement gratuity, if any, will not exceed Rs. 13,333.33 per annum.

Under clause 9 of the Bill the travelling allowance of the Comptroller and Auditor-General while travelling on duty shall be determined by the rules for the time being applicable to a member of the Indian Administrative Service holding the rank of Secretary to the Government of India. The annual expenditure (charged) on this account will be of the order of Rs. 15,000.

The duties and powers of the Comptroller and Auditor-General in relation to the accounts of the Union, of the States and of the Union territories having Legislative Assemblies and of other authorities or bodies, including keeping and compiling of accounts and audit of receipts and expenditure, are provided for in clauses 10 to 20 of the Bill. Most of these duties and powers are being discharged or exercised, as the case may be, by the Comptroller and Auditor-General even now.

Clause 21 of the Bill provides that any power exercisable by the Comptroller and Auditor-General may be exercised by such officer of his Department (the Indian Audit and Accounts Department) as may be authorised by him. The expenditure on this Department during 1969-70, (for which provision has been made in the Budget for 1969-70), is estimated to be of the order of Rs. 25.93 crores, (which includes charged expenditure of Rs. 47.65 lakhs), of which Rs. 5.80 crores is recoverable from Railways, Posts and Telegraphs and other departments or bodies whose accounts are maintained or audited, or both, by the Comptroller and Auditor-General. In addition a non-recurring provision of Rs. 1 crore has also been made for buildings. With expanding activities of Government, both Central and State, the work of the Comptroller and Auditor-General will also increase, leading to increase in staff. It is difficult however at this stage to indicate precisely the likely expenditure on the additional staff that might be required but the annual increase in expenditure due to expansion, normal increments etc. is expected to be of the order of 5 per cent.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the President to make such adaptations in the Civil Pensions (Commutation) Rules as may be necessary. This is a matter which can hardly be provided in the Act. The delegation is, therefore, of a normal character.

Sub-clause (1) of clause 22 of the Bill provides that the Central Government may, after consultation with the Comptroller and Auditor-General, by notification in the Official Gazette, make rules for carrying out the purposes of the Bill in so far as they relate to the maintenance of accounts. The matters which may be provided for in the rules have been specified in sub-clause (2). They, *inter alia,* relate to the manner in which initial and subsidiary accounts shall be kept by treasuries, offices and departments rendering accounts to the audit and accounts offices; the manner in which the accounts for the compiling and keeping of which the Comptroller and Auditor-General has been relieved of the responsibility, shall be compiled or kept and the manner in which the accounts of stores and stock shall be kept in any office or department. Under sub-clause (3) of clause 22, the rules will be subject to the scrutiny of Parliament. These are matters of procedure and administrative detail and it is hardly practicable to provide for them in the Bill itself. The delegation is, thus, of a normal character.

Clause 23 of the Bill authorises the Comptroller and Auditor-General to make regulations for carrying into effect the provisions of the Bill in so far as they relate to scope and extent of audit, including laying down for the guidance of the Government Departments the general principles of Government accounting and the broad principles in regard to audit of receipts and expenditure. Since these regulations would be in the nature of departmental instructions by the Comptroller and Auditor-General or instructions for the guidance of Government Departments, the delegation is of a normal character.

S. L. SHAKDHER,

Secretary.

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